Research and Statistics Division

JustResearch

2005 – Issue No. 13

www.canada.justice.gc.ca/en/ps/rs

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The opinions expressed herein are those of the authors and not necessarily those of the Department of Justice Canada.

Welcome

Welcome to the Research and Statistics Division's most recent issue of *JustResearch*. In this issue, we are excited to be focusing on a topical and thought-provoking theme: **Achieving Justice for Vulnerable Canadians**. Research has consistently demonstrated that some groups of people are more likely to become involved in the justice system, particularly as victims, including children, street youth, Aboriginal people, visible minorities, and low-income Canadians. Being able to understand the distinct needs and experiences of vulnerable groups in the justice system is an important step in developing efforts to achieve more equitable social relationships and promote a fair, accessible, and efficient system of justice.

The articles in this edition of *JustResearch* shed light on a number of significant issues concerning some of the more vulnerable groups in Canadian society. Kathryn Campbell and Myriam Denov provide insight into the experiences of the wrongfully imprisoned in Canada based upon findings from their groundbreaking research study. Kuan Li examines the important issue of trafficking in persons and argues there is a pressing need for more Canadian research to fill significant gaps in the existing knowledge base. Randall Kropp, Stephen Hart, and Henrik Belfrage present the results of their evaluation into a new risk assessment tool designed to assist law enforcement officers in assessing the risk of future violence during domestic violence investigations. Jeff Latimer examines the responses of Canadian courts to cases of child sexual exploitation, as well as the recidivism rates of offenders who have been convicted of child-specific sexual offences. Albert Currie discusses recent data emerging from a national study into civil law problems and highlights the occurrence of such problems among vulnerable groups. Finally

Submission Guidelines for Prospective Authors

Submissions

To submit an article to *JustResearch*, please send an electronic copy of the article via email to the following address:

Jeff Latimer
Editor, *JustResearch*
Research and Statistics Division
Department of Justice Canada
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Content and Focus

The goal of *JustResearch* is to disseminate and integrate policy relevant research results across the Department of Justice Canada and within our readership. As such, articles should focus on issues related to the mandate and the broader policy direction of the Department of Justice Canada. Please consider the themes for upcoming issues (see below) in the preparation of your submissions. Authorship and institutional affiliation should be included with all submissions.

Language

Articles may be submitted in either French or English.

Length

Articles should be between 2000 to 4000 words (5-10 pages, single spaced) including references, tables and figures.

Style

All articles should be written in a clear, non-technical language appropriate for a broad audience. The use of headings and subheadings is strongly encouraged. The electronic copy being submitted should be in 11-point Times New Roman font, and the text should be single-spaced. No logos, headers, footers, or other embedded elements should be inserted in the electronic copy of the article. Tables and figures should be numbered consecutively and should be placed appropriately throughout the article. They should be submitted in Microsoft Word, Excel, Access, or PowerPoint, and the source files should be provided and be clearly identified. The style to be used for references, footnotes, and endnotes should follow the author-date system described in *The Chicago Manual of Style*.[1]

Publication

Please note that we cannot guarantee all submissions will be published. All accepted articles will be edited for content, style, grammar and spelling. Any substantive changes will be sent to the author(s) for approval prior to publication.

Upcoming Themes

Issue Number 14: ***New and Emerging Justice Issues***
Submissions should be received by November 30, 2005.

Issue Number 15: ***Aboriginal Justice Issues***
Submissions should be received by March 31, 2006.

[1] University of Chicago Press, *The Chicago Manual of Style*, 15th edition (Chicago: University of Chicago Press, 2003).

WELCOME...
continued...

Janet Graham summarises a multi-site survey of victims of crime and criminal justice professionals conducted by PRA Inc. on behalf of the Department of Justice Canada.

In addition to our profile articles, we are also pleased to provide several research briefs, including a statistical profile on vulnerable Canadians by Jacinthe Loubier, a statistical note on women in the legal profession by Fernando Mata, and a polling report on same-sex marriage by Allison Millar. And, as always, we have included a section on recent and upcoming research from the Research and Statistics Division.

Happy Reading!

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FEEDBACK

We invite your comments and suggestions for future issues of *JustResearch*. We welcome your ideas for upcoming themes and are happy to accept original submissions for publication. We may be contacted at: rsd.drs@justice.gc.ca

Recent and Upcoming Conferences

9th International Family Violence Research Conference
July 10-13, 2005. Portsmouth, New Hampshire, USA.
Themes: Delinquency Prevention; Forensic Science; Health/Mental Health; Juvenile Justice; Law Enforcement; Missing and Exploited Children; Statistics; Victims of Crime
http://www.unh.edu/frl/conferences/2005/

End Violence Against Women (EVAW) International Conference on Sexual Assault, Domestic Violence and Stalking
October 3-5, 2005. Baltimore, Maryland, USA.
Themes: Prosecuting Sexual Assault; National Standards for Sexual Assault Forensic Examinations; Trafficking; Stalking Technology; Juries and Gender Bias; Abuse of Vulnerable Adults and Mandated Reporting; Affects of Trauma on Memory; Communicating with Victims of Sexual Assault; Sexual Assault of Minors
http://www.evawinc.com/baltimore2005.html

The 30th Canadian Congress on Criminal Justice
October 26-29, 2005. Calgary, Alberta.
Themes: Elder Abuse: An Evolving Correctional Outcome; Prevention of Domestic Abuse: New Initiatives for an Old Problem; Silent Slaughter: Turning our Backs on the Mentally Ill; Women and Girls: The World's Newest Disposable Consumer Products; Aboriginal Justice: Taking Control and Responsibility; Violence Against Immigrant and Visible Minority Women; Homelessness: Challenges and Frustrations in 2005; Beyond Borders: Challenging the Plight of Sexually Exploited Children
http://www.ccja-acjp.ca/cong2005/en/

Connexions

The National Clearinghouse on Family Violence
On behalf of the Government of Canada and its Family Violence Initiative (FVI), the Public Health Agency of Canada operates the National Clearinghouse on Family Violence (NCFV). The NCFV is Canada's resource centre for information on violence within relationships of kinship, intimacy, dependency, or trust.
http://www.phac-aspc.gc.ca/ncfv-cnivf/familyviolence

The Office for Disabilities Issues
The Office for Disability Issues (ODI) is the focal point within the Government of Canada for key partners working to promote the full participation of Canadians with disabilities in learning, work, and community life.
http://www.sdc.gc.ca/en/gateways/nav/top_nav/program/odi.shtml

Policy Centre for Victim Issues
The Policy Centre for Victim Issues at the Department of Justice Canada is mandated to work towards increasing the confidence of victims of crime in the criminal justice system by pursuing a range of activities and initiatives to: make victims more aware of their role in the criminal justice system and the laws, services, and assistance applicable to them; increase overall awareness about the needs of victims of crime and effective approaches in Canada and internationally; and improve the ability of the Department of Justice to develop laws and policy that take into consideration the perspectives of victims.
http://canada.justice.gc.ca/en/ps/voc/index.html

RESEARCH IN PROFILE

Miscarriages of Justice: The Impact of Wrongful Imprisonment[2]

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INTRODUCTION

In recent years, the problem of wrongful conviction has become an accepted reality in most common law jurisdictions. High profile cases tend not only to draw our attention to the detrimental effects of a wrongful conviction on an individual, but also to point out how aspects of the criminal justice process have failed. Research has now amply demonstrated that a number of factors, generally occurring together to varying degrees, contribute to wrongful conviction and imprisonment. They include: erroneous eyewitness identification and testimony, police and prosecutorial misconduct, false confessions, over-reliance on in-custody informants, and unsound forensic science or its misuse. While the majority of this research has emanated from the United States (Huff 2004), it is, nonetheless, relevant in the Canadian context given our similar common law, adversarial systems. Furthermore, recent research has demonstrated that similar contributing factors occur in Canada as well (Denov and Campbell 2003).

"Research has...demonstrated that a number of factors...contribute to wrongful conviction and imprisonment. They include: erroneous eyewitness identification and testimony, police and prosecutorial misconduct, false confessions, over-reliance on in-custody informants, and unsound forensic science or its misuse."

What becomes apparent is that a great deal of research on wrongful convictions has tended to focus on the many systemic factors that contribute to these miscarriages of justice. Although this is highly important, little has been written from the perspective of the wrongly convicted. While some recent work from the United Kingdom has examined the experiences of the wrongly convicted from a psychological standpoint (Grounds 2004), no research to date has examined how wrongly convicted persons experience, define, and cope with a wrongful imprisonment. Thus, the objective of our study was to examine:

"Although this is highly important, little has been written from the perspective of the wrongly convicted."

- the experiences of the wrongly convicted and imprisoned;
- how they coped with wrongful arrest, conviction, and imprisonment;
- the consequences of maintaining their innocence throughout the criminal justice process; and
- the long-term effects of the experience.

[2] This paper has been partially adapted from Denov and Campbell (2003, 2005) and Campbell and Denov (2004).

MISCARRIAGES OF JUSTICE....
continued...

METHOD

Through the use of qualitative semi-structured interviewing, five males were interviewed for this study. Each respondent had been wrongly convicted and imprisoned in a Canadian federal institution. Respondents were all Caucasian males and at the time of interview ranged in age from 31 to 65 years. Their terms of imprisonment averaged five years (range = 3 to 8 years), and all, except one, have since been fully exonerated by the courts. Sam[3] was wrongly convicted of murdering his wife, who accidentally choked to death, and he served over eight years in a maximum-security facility before being acquitted on appeal. Jason was convicted of sexual assault and served over three years in prison, much of it in solitary confinement. Jason was acquitted on appeal following his release from prison. Mark was wrongly convicted of sexual assault, served over three years, and was exonerated after his release through the conviction review process. Max was wrongly convicted of robbery and assault, served five years in prison and a further ten years on parole. Almost thirty years following his crime, Max was acquitted on appeal. Finally, Sean was wrongly convicted of murdering a shopkeeper and served over five years in prison. Once released on appeal, and fearful of a further miscarriage of justice, Sean pled guilty to a lesser charge, which he is currently attempting to overturn. The experiences of these individuals represent the worst-case scenarios of wrongful conviction, as they all endured long-term imprisonment.

"...five males were interviewed for this study. Each respondent had been wrongly convicted and imprisoned in a Canadian federal institution."

Each participant was interviewed individually, with two respondents having been interviewed on several occasions. The interviews were audio-taped, transcribed, and through content analysis, both authors recorded consistent and concurrent themes. Given the qualitative nature of this study, no assumptions were made as to the generalizability of the findings to all persons wrongly convicted. However, the interviewees provided information which was interpreted as evidence of their beliefs regarding their experiences. The results, discussed below, provide information about how these individuals coped with a wrongful imprisonment and the long-term effects of these experiences.

"The results...provide information about how these individuals coped with a wrongful imprisonment and the long-term effects of these experiences."

RESEARCH RESULTS

Coping with a Wrongful Incarceration

The deleterious effects of long-term imprisonment have been well documented in the literature (Flanagan 1995; Roberts and Jackson 1991). The special stresses that affect prisoners include: relationship difficulties, such as loss of crucial relationships outside of prison and problems in developing relationships within the prison; concern with mental deterioration; the indeterminate nature of sentences; and the prison environment itself (Flanagan 1995). While all prisoners must learn to cope with the 'pains of imprisonment,' the impact of imprisonment on the wrongly con-

"While all prisoners must learn to cope with the 'pains of imprisonment,' the impact of imprisonment on the wrongly convicted appears to have effects that go beyond those experienced by other long-term prisoners."

[3] In order to ensure confidentiality, fictitious names have been used for the respondents mentioned in this article.

MISCARRIAGES OF JUSTICE:... continued...

victed appears to have effects that go beyond those experienced by other long-term prisoners. These individuals are victims of miscarriages of justice, and the harmful effects of confinement are further exacerbated by the unjust nature of their incarceration. This section explores the varied coping strategies that the five participants used to adapt to their wrongful imprisonment. These strategies, including violence, cooperation, withdrawal, and preoccupation with exoneration, represent a resourceful means to ensure their well-being in the hostile environment of a prison.

Coping Through Violence and Cooperation

A prison sentence constitutes a "massive assault" on the lives of those imprisoned and such an experience is exacerbated for first-time inmates (Berger 1963). One participant, an electrician who had done some electrical work inside a prison prior to his wrongful conviction, recalls his first impressions of prison life:

> I didn't like the experience [of working as an electrician in prison] ... You were working near the inmates and the guards. Then you saw the fights, or you'd be told stuff like "Oh, your tools, if you don't know what to do with them, I know what to do with them." Then you had inmates who would come up behind you, and you've got your tools to watch ... So I found it hard, but it was only a superficial part of what prison is all about. So it wasn't a good experience for me, going to work there ... I never thought that one day I would end up there myself. (Mark)

"Once one is imprisoned, such perceptions of prison violence become a reality, as violence is part of daily existence inside."

Once one is imprisoned, such perceptions of prison violence become a reality, as violence is part of daily existence inside. Two participants explained the importance of surviving prison violence and how they managed to cope:

> You've got armed groups, armed different factions, freely walking around, high-medium and maximum-security institutions. Armed, concealing, chemical weapons, fire weapons, bludgeoning weapons, slicing weapons. [Did you ever fear for your life?] I made a vest out of eleven National Geographics ... I stole two rolls of duct tape from the Auto Body Shop, and I took eleven National Geographics off one of the reading carts. I made a kinda pseudo puncture-proof vest. I wasn't the only one. [I wore the vest] under my clothes, every damn day, every time I left my cell. And it was made that way, so that it wouldn't set off end control, where you walk through metal detectors. (Jason)

MISCARRIAGES OF JUSTICE:...
continued...

> It's true that in prison, it's a world where survival comes before everything ... you have to try to survive in the jungle, and there's a lot of violence. So, you have to protect yourself, especially if you are accused of sexual crimes ... And so, you're always going around with a shiv or ... a fork in your pockets. Because when you're walking around, you never know where and when and how you'll be attacked. (Mark)

Finding a means to cope with prison violence was an unfortunate reality for many of our participants. More adaptive means of coping were also evident, including cooperation and belonging. Cooperation is a strategy used to avoid problems, conflict, and stress in the prison environment (Matthew 1999). Sean describes his involvement in a life-sentence inmate group where he provided support to and advocated on behalf of other long-term prisoners:

"Finding a means to cope with prison violence was an unfortunate reality for many of our participants."

> The lifer's group and helping out the guys was an escape. Was an escape completely! Because I'd worked on that, I give 'em community visits...there's a lot of people in there that were either drunk, or they were stoned...hearing their stories...I mean if they want to commit suicide and you're trying to help. I've always had a big heart, you know what I mean? I wanted to help these people. And also hearing their stories took me away from my... my situation I was in. You know what I mean? (Sean)

This strategy of cooperation enabled Sean to escape his own untenable reality by helping others cope with the prison experience. Similarly, Max, who had little formal education prior to his incarceration, coped with his wrongful imprisonment in large part through reading and learning. By taking advantage of his job in the prison library, Max taught himself a second language, as well as studying philosophy and semantics. Through this strategy of cooperation, Max was able to survive, and to some degree, escape from the harsh reality of prison:

"Cooperation is a strategy used to avoid problems, conflict, and stress in the prison environment..."

> Fate is always operating out there somehow, for example sending me to work in the library, instead of the workshop where the majority of inmates were. So, I familiarized myself with the world of books and that is how I came to read a lot. All kinds of books, because I didn't have any knowledge at first...and I had tremendous difficulty, I have to say, even to read...A book could take me a week to read, and needless to say, I had enough time for that...sixteen hours and a half, seventeen in a cell...I discovered Sartre...Camus, authors that really bring you to understand... you know, we exist and that we are products of society...I learned [a second language]. I learned many different kinds of things. This was an excellent way for me to escape from prison. (Max)

MISCARRIAGES OF JUSTICE:...
continued...

Withdrawal, Isolation, and Suicidal Ideation

Matthew (1999) suggests that withdrawal, which can take a number of forms, is also an important prison coping strategy. Withdrawal may be manifest as physical separation from other prisoners through segregation, isolation, and minimal communication with other inmates. Both Jason and Max describe their conscious withdrawal from the prison population. For Jason, this isolation was to maintain his sense of sanity. For Max, it was simply because he felt that he was inherently different from the other inmates:

"...withdrawal, which can take a number of forms, is also an important prison coping strategy."

> As my time progressed, I did two 8-months sentences, almost back to back, in segregation... I consciously, purposely, removed myself from that population...But, I purposely removed myself from everything. Not just the institution, but everything. And I put myself into a size of a normal house bathroom: vanity, toilet, mirror, tub. Turn the tub, and that's a cell. And I just lived there. Within me. I had to. I couldn't afford to lose my mind. (Jason)

> I was always apart from the other inmates...criminals had nothing to offer me. (Max)

"Matthew (1999) argues that withdrawal may also reveal itself through forms of depression, self-mutilation, and suicide."

Matthew (1999) argues that withdrawal may also reveal itself through forms of depression, self-mutilation, and suicide. Suicidal ideation and suicide attempts were a reality for many of the respondents. The prison literature indicates that those most likely to attempt suicide are those who are physically and socially isolated in prisons with few activities and with little contact with home and family (Liebling 1992). For the wrongly convicted, the effects of such isolation are likely exacerbated, given that their imprisonment resulted from miscarriages of justice. The following excerpt describes Jason's suicide attempt subsequent to his bail hearing:

"For the wrongly convicted, the effects of such isolation are likely exacerbated, given that their imprisonment resulted from miscarriages of justice."

> I had been denied bail...Denied. Didn't take too long to decide that I wasn't going to go through that again. So, I waited for my cellmate to pass out, for the nurse to come, for him to get his medication, that shift's guard to do his walk. I had already made the rope, earlier that day. Took the bed sheet, braided it. Tested the metal box that protected the smoke detector. Decided it would hold my weight. Made the knot. Waited for everything, lights went out. Put it up, went and stood on the stainless steel sink in the corner. Put the rope around my neck and stepped off the sink...In about the instant that I was hanging there, I decided that I didn't want to be there. But I didn't have enough strength to pull myself up. I just, I was spinning. If I wasn't spinning, I probably could, but... The jolt of making the rope tense made me spin, which was a good thing, I guess, because my feet started to kick the sink and it woke my cell-mate. (Jason)

MISCARRIAGES OF JUSTICE...
continued...

Preoccupation with Exoneration

A further coping strategy that appears particular to the experience of the wrongly convicted is a preoccupation with the facts of their case. All of the interviewees described how they became completely absorbed with the details of their cases, pouring over court transcripts and legal files, writing letters, hounding legal officials and prison administrators for information, all in pursuit of exoneration.

"A further coping strategy that appears particular to the experience of the wrongly convicted is a preoccupation with the facts of their case".

> I just poured over my transcripts... I was obsessed about the case. Kind of normal. I was wrongly convicted... I would always just get up in the middle of the night and start writing things down...I'd write everything down. That was my baby to save. And that's exactly what I did. (Sean)

> All this time, I protested my innocence, I submitted an enormous amount of paperwork to the penitentiary authorities, first, and then to the Department of Justice...and also to Ottawa, and they would pass the buck to each other continually. Finally, I wrote to the Queen directly, that...obviously, didn't do anything. (Max)

However, this preoccupation with their case often worked to their detriment inside the prison as the prison administration tended to view these actions as evidence of their lack of remorse and inability to adapt to the prison environment:

> I was obsessed about my case... I was wrongly convicted. [My case manager] kept on making reports, 'the guy just denies and denies and denies, he keeps talking about his case, case, case'...My classification officer told me, 'Jesus, you've got to stop doing this, you're never going to get out...The parole board takes this as if you're denying the crime...that you're not healed... you're not fixed...You have to admit to the crime in order to fix your problems' Sorry! I'm not guilty! I'm not denying. I'm just telling you the truth. (Sean)

"The difficulties encountered by the wrongly convicted did not end once they were released from prison."

The Long-term Effects of Wrongful Imprisonment

The difficulties encountered by the wrongly convicted did not end once they were released from prison. The following section explores the long-term effects of a wrongful imprisonment as identified by the respondents since their release from prison. These effects include issues of loss and effects on family, intense anger and aggression, an intolerance of injustices, and a continued sense of imprisonment despite their release.

MISCARRIAGES OF JUSTICE:...
continued...

Loss and Effects on Family

The losses experienced by those wrongly convicted were profound. These included loss of freedom and the loss of their former identity and sense of self:

> I lost me, is what I lost...my identity, who I am...The way I viewed life. (Jason)

"...the most significant loss appeared to be the loss of family."

However, the most significant loss appeared to be the loss of family. Mark, whose two children were apprehended by child protection authorities when his wife suffered a breakdown during his incarceration, explains the devastation of losing his family:

> What it affected was my nuclear family-wife and my children, my family. It completely devastated that. We lost our home...I lost my kids... I lost the care and guidance and companionship of my dad. We were extremely close. I lost that... the hardest part about being an inmate was the loss of the family. (Mark)

"The hardships that accompany losing one's family through incarceration also affect the families themselves."

The hardships that accompany losing one's family through incarceration also affect the families themselves. Not only are they deprived of the emotional support of their loved one, and forced to deal with the reality of having a family member in prison, but they also may be deprived of an essential source of income (Ferraro et al. 1983). As Jason explains:

> [My wife] she was left living with the reality of being single, with four children, a mortgage, hydro, the groceries and other accoutrements that go with having four young children: one in school, needing to work, needing to deal with baby-sitters and, oh yeah, my husband's in prison. (Jason)

Volatility, Anger, and Aggression

"...respondents noted that their experiences have fuelled a generalized anger and feelings of aggression towards society, as well as a more specific hatred of the justice system."

All of the respondents noted that their experiences have fuelled a generalized anger and feelings of aggression towards society, as well as a more specific hatred of the justice system. Max, who was wrongly convicted of robbery notes:

> I am full of HATE [shouting]. Full of hate and this has lasted for years. I am full of hate against the administration of justice in this province. I also hate a society that accepts injustices as normal. (Max)

MISCARRIAGES OF JUSTICE:... continued...

All of the respondents reported that their wrongful incarcerations have had an important impact on their level of aggression and overall temperament. In all cases, participants reported being more angry, aggressive, and impulsive than prior to their imprisonment:

> There's no question that I had to learn to be tougher, harder. Without a doubt, I became more aggressive, more angry. It doesn't take much for me to blow up... [Before my incarceration] I was more patient, and it would take me a lot more to get angry. But now, it doesn't take anything. (Jason)

"Consistently found among the interviewees was an increasing intolerance for injustice."

Intolerance of Injustice

Upon release from imprisonment, most prisoners experience a period of readjustment, in which they find new means to cope in society and adapt to increasing social and familial demands. Consistently found among the interviewees was an increasing intolerance for injustice. Specific incidents where an individual's rights were not respected or where the outcome of a situation was considered unfair had a profound effect on several of these men. The experience of wrongful conviction and imprisonment seems to have instilled in them a profound cynicism and mistrust regarding the fairness and legitimacy of authority figures. This appeared to affect various aspects of their lives, whether it was an injustice perpetrated against themselves or against others. Sam describes this heightened sensitivity:

"...in spite of being released from prison, many respondents do not feel that they are truly 'free,' and continue to feel constrained by a sense of imprisonment..."

> Well it's made me less tolerant of a number of things, including injustices and bureaucracies...so... I still, you know, its pretty emotional issue for me, I still react when I read about injustice. I have a heightened sense of awareness, I'm a little hypersensitive to somebody getting screwed around by the justice system. (Sam)

Continued Sense of Imprisonment Upon Release

Being wrongfully incarcerated has had a considerable effect on the respondent's behaviour, perspectives, and circumstances. However, in spite of being released from prison, many respondents do not feel that they are truly 'free,' and continue to feel constrained by a sense of imprisonment that prevents them from leading a normal or productive life:

> When I'm asked how much time I did... I believe that I've been in prison for decades psychologically. (Max)

MISCARRIAGES OF JUSTICE:... continued...

For Mark, seemingly simple daily tasks appear to take on enormous significance, often inciting panic and a self-consciousness concerning his former status as a prisoner. He describes an incident buying groceries:

> My wife wasn't feeling well that day, and she asked me to go run an errand. I took the car and I went to [city], to run an errand. I was panicking. I was there with the [grocery] basket and I felt like everyone was staring at me. I wasn't yet pardoned. I was only freed [from prison]. I still had to report to a probation officer...I still felt like a prisoner. (Mark)

However, in spite of efforts to hide their pasts, many were unable to do so and were forced to live with the negative consequences. Mark, for example, was unable to escape the label and vilification associated with being a sex offender:

"Regardless of their newfound 'freedom' through exoneration, respondents continue to suffer upon release."

> The label of 'rapist' follows you. Even if you were to dye your hair black and you'd have darker skin when you get out. Whether you like it or not, the label 'rapist' always comes out, because there's always someone, somewhere, whether it be a guard or a prisoner, who has seen you and who passes along the message (Mark).

"When a wrongful conviction has occurred, the wrongly convicted have few levels of recourse available to them in order to rectify the miscarriage of justice."

> When I would go out for a short walk... I'd get scared when [my family] locked the doors on me. When I hear the 'click' of a door that shuts loudly, like a prison door, I turn around and jump. It's lessened somewhat, but it's still there. I can be in the middle of shaving and I get a flash of something that happened inside [prison]...it comes back to me. So you have flashes every now and then. Sometimes when I'm sleeping, I'd dream that I was in prison. I'd wake up in a panic. (Jason)

Regardless of their newfound 'freedom' through exoneration, respondents continue to suffer upon release. Clearly, adaptation to life on the outside is fraught with painful, psychological difficulties.

POLICY RESPONSES: POST-CONVICTION EXONERATION

When a wrongful conviction has occurred, the wrongly convicted have few levels of recourse available to them in order to rectify the miscarriage of justice. Presently, the methods of redress include conviction review through the *Criminal Code*, commissions of inquiry, and compensation. Conviction review, under section 696.1 of the *Criminal Code*, allows individuals who maintain that they have been wrongly convicted to apply for a review of the circumstances of their case and conviction. This is undertaken through the Criminal Conviction Review Group of the Department of Justice Canada, which is staffed by legal counsel. The criteria for review require that individuals must have exhausted all appeals through the courts and that there are new matters

MISCARRIAGES OF JUSTICE:... continued...

of significance not previously considered by the courts. Given these strict criteria, few reviews are completed in any given year and the process is not only lengthy but quite costly.

Commissions of inquiry are also considered a means of redress for miscarriages of justice. In theory, they have been used towards this end, but in practice they are not particularly accessible as they tend to occur infrequently, take many years to complete, are only available at the behest of provinces, and to date have been restricted to high profile cases. Such commissions are chaired by seasoned judges and involve investigations that result when questions raised concerning the administration of justice are of sufficient public importance or concern to justify an inquiry. To date, three commissions of inquiry have occurred in Canada to address the circumstances surrounding miscarriages of justice, and at the time of writing this article, two more are in progress.[4] The recommendations that emanate from these inquiries generally address police and prosecutorial practices and how to prevent such miscarriages from occurring in the future. However, the extent to which provincial governments have implemented them into criminal justice practice is less clear.

"To date, three commissions of inquiry have occurred in Canada to address the circumstances surrounding miscarriages of justice, and at the time of writing this article, two more are in progress."

The final means of recourse involves financial compensation to individuals who have been victims of miscarriages of justice. The Canadian government adopted a set of federal-provincial guidelines in 1988, which assign the necessary conditions for compensation to be awarded to the wrongfully convicted and imprisoned and address the rationale for compensation, the conditions of eligibility for compensation, and the criteria for quantum of compensation. Nonetheless, the awarding of compensation is far from automatic and is a small consolation for the devastation to family, credibility, livelihood, and mental health engendered by a wrongful conviction.

POLICY IMPLICATIONS: PREVENTING MISCARRIAGES OF JUSTICE

Earlier this year, the Department of Justice Canada released a document entitled Report on the Prevention of Miscarriages of Justice (2005) which contains a comprehensive set of recommendations aimed at preventing future miscarriages of justice. It outlines preventive practices that specifically address the factors repeatedly found to contribute to wrongful convictions, including tunnel vision, eyewitness identification

4 The Marshall Inquiry, which emanated from the wrongful conviction of Donald Marshall Jr., had a broad mandate to review and assess the administration of criminal justice in Nova Scotia and to 'make recommendations' to help prevent such tragedies from happening in the future (Royal Commission, 1989). The mandates of the other two commissions were similar. Both the Kaufman Inquiry, surrounding the wrongful conviction of Guy Paul Morin, and the Sophonow Inquiry, which examined the wrongful conviction of Thomas Sophonow, were mandated to examine police investigations and criminal proceedings that may lead to wrongful convictions as well as to make recommendations regarding the administration of criminal justice. At the time of writing this article, the inquiry into the wrongful conviction and imprisonment of David Milgaard is taking place in Saskatchewan, as is the Lamer Inquiry into the wrongful convictions of Ronald Dalton, Randy Druken, and Gregory Parsons in Newfoundland.

MISCARRIAGES OF JUSTICE...
continued...

and testimony, false confessions, in-custody informers, DNA evidence, forensic evidence, and expert testimony. These policy recommendations are, without question, an important first step towards a more transparent and fair criminal justice process. What is needed is further study as to how these recommendations can be implemented in everyday criminal justice practices, as well as their impact on the wrongly imprisoned. As our research has highlighted, given the profound long-term psychological, social, and economic implications of wrongful convictions-both for the wrongly convicted and their families-greater attention to prevention and to meeting the needs of those implicated is crucial to assuring justice at all levels.

"What is needed is further study as to how these recommendations can be implemented in everyday criminal justice practices, as well as their impact on the wrongly imprisoned."

REFERENCES

Berger, P. 1963. *Invitation to sociology: A humanistic perspective*. Garden City, NY: Doubleday Anchor.

Campbell, K., and M. Denov. 2004. The burden of innocence: Coping with a wrongful imprisonment. *Canadian Journal of Criminology and Criminal Justice* 46(2): 139-163.

Denov, M., and K. Campbell. 2003. Wrongful conviction. In *Criminal Justice: A Reader*, ed. J. Roberts and M. Grossman. Toronto: Harcourt.

Denov, M., and K. Campbell. 2005. Criminal injustice: Understanding the causes, effects and responses to wrongful conviction in Canada. Manuscript submitted for publication.

Department of Justice Canada. 2005. *Report on the prevention of miscarriages of justice*. Ottawa: Federal/Provincial/Territorial Heads of Prosecution Committee Working Group.

Ferraro, K. J., and A. M. Moe. 2003. Mothering, crime and incarceration. *Journal of Contemporary Ethnography* 32:9-40.

Flanagan, T. 1995. *Long-term imprisonment*. London: Sage.

Grounds, A. 2004. Psychological consequences of wrongful conviction and imprisonment. *Canadian Journal of Criminology and Criminal Justice* 46:165-182.

Huff, C. R. 2004. Wrongful convictions: The American experience. *Canadian Journal of Criminology and Criminal Justice* 46:107-120.

Liebling, A. 1992. *Suicides in prison*. London: Routledge.

Matthew, R. 1999. *Doing time: An introduction to the sociology of imprisonment*. Basingstoke, UK: Macmillan.

Roberts, J. V., and M. Jackson. 1991. Boats against the current: A note on the effects of imprisonment. *Law and Human Behaviour* 15:557-562.

Royal Commission on the Donald Marshall Jr. Prosecution. 1989. *Royal Commission on the Donald Marshall Jr. Prosecution: Digest of Findings and Recommendations*. Halifax: Queen's Printer.

Trafficking in Persons in Canada: The Need for Research

PROBLEMS AND RESPONSES

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Trafficking in persons involves the recruitment, transportation, or harbouring of persons for the purpose of exploitation and may occur across or within borders. Traffickers use various methods to maintain control over their victims, including force, and threats of violence. Victims are forced into prostitution or forced to work in quarries and sweatshops, on farms, as domestics, as child soldiers, and in many other forms of involuntary servitude. Trafficking in persons is a multidimensional problem, encompassing aspects of migration, human rights, gender equality, and transnational organized crime.

Trafficking in persons, in particular the trafficking of women and children, has been growing rapidly in the past decade and has become an issue that requires attention in Canada and internationally. The U.S. Department of State (2004) estimates that 600,000 to 800,000 people are trafficked across international borders each year, with over half of all victims trafficked for sexual exploitation. Domestically, the RCMP (2004) estimates that each year approximately 800 people are trafficked into Canada and 1,500 to 2,200 persons are trafficked through Canada into the United States. Trafficking in persons often involves extensive organized crime networks and generates an estimated $9.5 billion annually, making it the third largest illegal revenue stream in the world (U.S. Department of State 2004).

"Trafficking in persons, in particular the trafficking of women and children, has been growing rapidly in the past decade and has become an issue that requires attention in Canada and internationally."

In response to the growing problem of trafficking in persons, the United Nations adopted various protocols including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol), which obliges signatory nations, including Canada, to criminalize the organization, assistance, or participation in the trafficking of persons. The Trafficking Protocol also addresses the needs of victims and the importance of prevention.

Canada ratified the Trafficking Protocol in May 2002. In June of that same year, the adoption of the Immigration and Refugee Protection Act made trafficking in persons an offence. In addition, trafficking in persons is prosecuted through *Criminal Code* offences such as kidnapping, extortion, forcible confinement, conspiracy, and controlling or living off the avails of prostitution, as well as organized crime offences.

"In response to the growing problem of trafficking in persons, the United Nations adopted various protocols"...

The approach adopted by the UN and the Canadian government to combat trafficking in persons, however, is the subject of considerable critique by international and national non-governmental organizations. It has been claimed that such strategies of repression not only fail to address the root causes of irregular migration but also obscure the labour exploitation of irregular migrants in host countries. Moreover, according

TRAFFICKING IN PERSONS...
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to Bruckert and Parent (2004), trafficked persons are often subject to punitive intervention, and there are few commitments to meet their needs.

EXISTING RESEARCH

Despite the complexity of the problem and the need to understand it, there has been little research conducted in Canada on trafficking in persons, and most of the research that was done was funded by the federal government. In 2004, the RCMP produced the first assessment of the extent and scope of trafficking in persons in Canada. Although the report (Royal Canadian Mounted Police 2004) examines the issue from a Canadian law enforcement perspective, it helps to establish the parameters for defining trafficking in persons and acknowledges the urgent need for data collection.

In a literature review commissioned by the RCMP on trafficking in persons and organized crime, Bruckert and Parent (2002) pointed out that only limited material is available, and their analysis has largely been based on secondary data sources, such as research reports and journalistic sources. They also identified the main parameters of the issue and proposed areas in which future research is needed, including research on the various types of trafficking in persons, the interfaces between national legislation on the sex trade, the definition and assessment of the problem, and the means that have been proposed for combating it, and victims' needs at various stages of their experiences.

"Despite the complexity of the problem and the need to understand it, there has been little research conducted in Canada on trafficking in persons, and most of the research that was done was funded by the federal government."

Their follow-up study (Bruckert and Parent 2004) further examined the issues surrounding trafficking in persons and the links to organized crime by analysing official documents and court cases and interviewing criminal justice representatives and sex trade worker advocates. It stressed the importance of attending to the complex interplay of all the factors that drive irregular migration and the social and labour needs of all persons regardless of immigration status or labour location.

Other research efforts in Canada have concentrated on women and children, the group most vulnerable to trafficking. Status of Women Canada supported three independent policy research projects on trafficking in women. One research project focused on the experiences and struggles of Filipino Mail-Order Brides in Canada (Philippine Women Centre of B.C. 2000). The second project explored the trafficking in women from Central and Eastern Europe to Canada, including the circumstances under which they came to Canada, their working conditions, and how they adapted to the sex trade (McDonald 2000). The third project analysed the legal framework governing the hiring of immigrant live-in caregivers under the Live-in Caregiver Program and the mail-order bride business (Langevin and Belleau 2000).

In 2004, the Department of Justice Canada released a report on trafficking in children in Canada (Langevin et al. 2004). It attempted to establish a foundation for a more in-depth multidisciplinary study on child

TRAFFICKING IN PERSONS... continued...

trafficking in Canada by gathering preliminary information, locating both governmental and non-governmental organizations working on this issue, and identifying the experts who could develop and implement policies against child trafficking in Canada.

THE NEED FOR RESEARCH

While the interest in trafficking in persons has been growing and more research is being undertaken, there is still very limited information on the scale of trafficking in persons, its nature, its impact, and the most effective ways to control it. Studies in the United States have shown that law enforcement, social service providers, and legal advocates have gained most of their understanding about trafficking on a case-by-case basis (Free the Slaves and Human Rights Centre 2004), which is probably even more true in Canada.

First and foremost, there has been a lack of reliable information on the extent of the problem, such as the number of persons trafficked, the geographic distribution of trafficked persons, the number of trafficking cases detected, the number of traffickers charged, and the number of traffickers prosecuted, and the outcome. While limited data are collected and a coordinated national data collection strategy is in the developmental stages, methodologies could immediately be developed to produce sound estimates in order to identify the magnitude of trafficking in persons in Canada. For instance, effective estimates could be developed using indirect indicators, such as the number and types of visas issued, the number of visas refused, the number of certain types of crimes linked to human trafficking, characteristics of refugee seekers, and the number of illegal border crossings.

"...there has been a lack of reliable information on the extent of the problem, such as the number of persons trafficked,...cases detected,...and the outcome."

Secondly, there is a limited understanding of the nature of trafficking in persons in Canada. More specifically, there is a need to distinguish between different types of trafficking; to obtain demographic and occupational information on both traffickers and consumers; to uncover the structure of the trafficking networks; to examine the nature and extent of Aboriginal people trafficked within Canada; to map trafficking routes starting from country of origin to country of destination, including transit countries, key entry points and movements within Canada; and to study the international perspective on trafficking in persons and the response to it.

Research needs to pay particular attention to the specific vulnerability and needs of children and women. At the same time, however, it is important to ensure that other forms of trafficking receive adequate attention. It is, therefore, necessary to study different types of trafficking operations and to distinguish between trafficking for purposes of sexual exploitation, forced labour, and organ removal. Emphasis should also be placed on Aboriginal people trafficked within Canada or to the United States, as anecdotal evidence suggests that they are rather vulnerable to becoming a victim of trafficking in persons in Canada.

TRAFFICKING IN PERSONS...
continued...

Given the hidden nature of trafficking in persons, it is important to map out its routes and discover its patterns, which means identifying the origin of trafficked persons, the route taken to arrive in Canada, and their movement within Canada. It also means determining and distinguishing the role of Canada as a country of destination, transit, and origin. This will require an analysis of the databases that record such information from domestic and international organizations, assessing the degree to which it accurately identifies trafficking routes into North America and using whatever data are currently available to track movement within Canada.

The global nature of trafficking in persons means that one cannot conduct research on this issue in Canada with studies confined within the borders of Canada. On the one hand, efforts should be taken to understand trafficking in persons in source countries: the conditions that make people vulnerable, the ways in which recruitment occurs, and the kind of outreach that helps victims. Such information from source countries would help develop a coordinated and effective prevention strategy. On the other hand, studying the experiences of destination countries would allow Canada to synthesize information from a broad range of perspectives and to develop effective strategies by building on the knowledge and insight from other countries.

"The global nature of trafficking in persons means that one cannot conduct research on this issue in Canada with studies confined within the borders of Canada."

Thirdly, our understanding of the needs and experiences of trafficked persons is insufficient at present. It is essential to identify the following: the process by which victims of trafficking in persons are recruited and what makes them vulnerable; the characteristics of victims (e.g., age, ethnic background, sex); how they enter Canada; where they live and how long they stay; their living and working conditions; their needs and how these needs are being met; and how they return to their source countries or integrate into Canada as survivors.

Assessing the needs of the victims, the barriers to accessing services, and the extent that existing services meet victim needs would provide a basis to develop more responsive and effective programs to ensure that the needs of trafficking victims are met. It is necessary to establish how the needs of trafficking victims differ from other victims of crime and to discover the central barriers they face in securing support and assistance. For example, if indeed the majority of trafficked persons come from poor countries and often arrive as illegal immigrants, it is imperative to comprehend the combined effects of not having legal status to access services, not understanding the Canadian criminal justice system, and facing linguistic and cultural barriers. Moreover, research should be conducted to determine the follow-up care needed for survivors who choose to return to their countries of origin.

Finally, research is needed to support the work of frontline workers and NGOs. It is necessary to understand how trafficking cases/victims are identified and in which economic sectors trafficking in persons tends to occur, so that law enforcement and federal agencies can target activities

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and resources where they are most effective. It is also essential to evaluate the effectiveness of legal reforms and policy changes, to monitor their implementation, and to identify effective practices as well as barriers.

Many NGOs have responded to trafficking in persons by offering direct services to trafficking victims whom they have encountered. Their needs and the obstacles they face in providing critical services to victims should be examined. Knowing the barriers to providing services to trafficking victims and the assistance service providers need would help in developing strategies to improve their responses to the needs of trafficking victims. Furthermore, evaluation of current policies and practices in responding to trafficking in persons should be conducted in order to identify best practices. Thus, tools can be developed to assist frontline workers in identifying victims and providing appropriate services as well as to aid in the prosecution and conviction of traffickers.

CONCLUDING REMARKS

"Both immediate and long-term policy research need to be undertaken to address the knowledge gap in trafficking in persons."

Both immediate and long-term policy research need to be undertaken to address the knowledge gap in trafficking in persons. The issue of trafficking in persons should be treated as a series of interrelated steps along an extended continuum, which includes all stages in trafficking (i.e., recruitment, transit, destination, recovery), which means that an emphasis should be placed on mixed-methods research that engages multi-disciplinary teams. Such research would help to develop or improve legal instruments and operational policies/practices to more effectively direct preventative strategies, target law enforcement efforts, provide assistance to the victims and help them to recover and reintegrate into society.

REFERENCES

Bruckert, C., and C. Parent. 2002. *Trafficking in human beings and organized crime: A literature review*. Ottawa: Royal Canadian Mounted Police.

Bruckert, C., and C. Parent. 2004. *Organized crime and human trafficking in Canada: Tracing perceptions and discourses*. Ottawa: Royal Canadian Mounted Police.

Free the Slaves and Human Rights Centre. 2004. *Hidden slaves: Forced labour in the United States*. Berkley, CA: Free the Slaves and the Human Rights Centre.

Langevin, L., V. Atabekian, and J. F. Noel. 2004. *Trafficking in children in Canada: Preliminary assessment*. Ottawa: Department of Justice Canada.

Langevin, L., and M. Belleau. 2000. *Trafficking in women in Canada: A critical analysis of the legal framework governing immigrant live-in care givers and mail order brides*. Ottawa: Status of Women Canada.

TRAFFICKING IN PERSONS... continued...

McDonald, L. 2000. *Migrant sex workers from Eastern Europe and the former Soviet Union: The Canadian case*. Ottawa: Status of Women Canada.

Philippine Women Centre of B.C. 2000. Canada: *The new frontier for Filipino mail order brides*. Ottawa: Status of Women Canada

Royal Canadian Mounted Police. 2004. An assessment of the extent and scope of trafficking in human beings in Canada. Unpublished report by the Royal Canadian Mounted Police.

U.S. Department of State. 2004. *Trafficking in persons report*. Washington, DC: U.S. Department of State.

Working Documents Initiative

From time to time the Research and Statistics Division undertakes research that does not make it to the formal stage of a publication. There is still much value in these past works and great utility in making them available to a broader audience. To that end, and in recognition of the public expenditure on these efforts, these works will be made available publicly in their present format and language. Short summary descriptions of these reports will appear on our website following announcements in *JustResearch* and full text copies will be made available upon request to the Research and Statistics Division. These reports remain the views of their authors and in no way represent the views of the Department of Justice Canada or the Government of Canada.

Under this "working documents" initiative the following three reports are currently available:

The Size of the Underground Economy: A Review of the Estimates by Professor Stephen Easton and N. Veldhuis, Department of Economics, Simon Fraser University.

Researching Evidence of Hate Propaganda in Canada: A Conceptual Report by Dr. E. Faulkner, Department of Sociology and Anthropology, University of Windsor.

Drawing the Line: Responses to Hate Crimes and Bias Activities in Canada, Survey of Legal and Extra-Legal Recommendations by Professor A. M. Field, Department of Political Science, Carleton University.

Structuring Judgments about Spousal Violence Risk and Lethality: A Decision Support Tool for Criminal Justice Professionals

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INTRODUCTION

Intimate partner violence continues to be a serious problem in Canada, accounting for at least one quarter of all violent crimes reported to police (Canadian Centre for Justice Statistics 2003). As a result of numerous high-profile intimate partner homicides, law enforcement officers are under increased pressure to conduct systematic assessments to determine whether people who are suspected of intimate partner violence pose a high risk of serious or life-threatening violence.

"Intimate partner violence continues to be a serious problem in Canada, accounting for at least one quarter of all violent crimes reported to police..."

The two types of decision support tools that have been developed to help criminal justice professionals conduct risk and lethality assessments in cases of intimate partner violence are actuarial tools and structured professional judgment (SPJ) guidelines. Actuarial tools are statistical algorithms or tick-box checklists designed to predict an offender's future criminal behaviour on the basis of case history information. The key strength to this approach is that it improves upon the poor reliability and validity of intuitive or unstructured professional judgment (Grove and Meehl 1996; Quinsey et al. 1998). In Canada, this approach was used by the Ontario Provincial Police to develop the Ontario Domestic Assault Risk Assessment, or ODARA (Hilton et al. 2004). However, actuarial tools have at least four major limitations. First, evaluators cannot take into account unique, unusual, or case-specific factors. Second, although actuarial tools give the appearance of objectivity and precision, their interrater agreement and predictive accuracy is far from perfect. Third, actuarial tools do not directly guide decisions about case management strategies-that is, steps that could be taken to prevent future violence. Finally, no actuarial tests exist that can be used to assess risk for life-threatening intimate partner violence.

"The two types of decision support tools that have been developed to help criminal justice professionals conduct risk and lethality assessments in cases of intimate partner violence are actuarial tools and structured professional judgment (SPJ) guidelines."

SPJ guidelines are "how-to" manuals that attempt to ensure that risk assessments reflect current theoretical, professional, and empirical views of intimate partner violence. They specify the risk factors that should be considered at a minimum in every case and make recommendations for gathering information, communicating opinions, and implementing case management strategies. In Canada, this approach was used by the British Columbia Institute Against Family Violence to develop the Spousal Assault Risk Assessment Guide, or SARA (Kropp et al. 1994, 1995, 1999). SPJ guidelines have been popular in the corrections field for many years, demonstrating considerable success in the prevention of general criminality (e.g., Andrews and Bonta 2003). One major limitation of SPJ guidelines is that they are subjective in nature, relying on the exercise of discretion. There is evidence, however, suggesting that the interrater agreement and predictive accuracy of decisions made using

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SPJ guidelines such as the SARA is equal to that of decisions made using actuarial tools (Douglas and Kropp 2002; see also Belfrage 1997; Douglas and Webster 1999; Grann and Wedin 2002; Hanson and Morton-Bourgon 2004; Kropp and Hart 2000). Another major limitation is that use of SPJ guidelines places a relatively heavy burden on users in terms of the availability of time, technical expertise, and case history information. For example, use of the SARA requires detailed information about the mental health of the offender.

In our view, the SPJ guideline approach is more appropriate than the actuarial approach when conducting intimate partner violence risk and lethality assessments. Principles of natural justice, as well as those enshrined in Canadian constitutional, statutory, and common law, place a heavy burden on those who make decisions that affect the life, liberty, and security of citizens. On the one hand, these decisions must not be arbitrary or discriminatory; the rationale underlying them must be clear, well reasoned, and reasonable. But on the other hand, the decision-making process must allow for some flexibility to reflect the uniqueness and totality of circumstances in the case at hand. With funding from the Department of Justice Canada, we developed SPJ guidelines for intimate partner violence risk assessment that could be used easily by police and other criminal justice professionals who may have little access to detailed information about the mental health of offenders. We called this new tool the Brief Spousal Assault Form for the Evaluation of Risk, or B-SAFER (Kropp and Hart 2004; Kropp et al. 2004).

"Principles of natural justice, as well as those enshrined in Canadian constitutional, statutory, and common law, place a heavy burden on those who make decisions that affect the life, liberty, and security of citizens."

DEVELOPMENT OF B-SAFER

The development process included three activities. First, we conducted a comprehensive review of the literature regarding spousal violence and spousal violence risk assessment. We also updated this review continuously during the project to keep abreast of new developments in the field. Second, together with our colleagues David Cooke and Christine Michie from Glasgow Caledonian University, we statistically analyzed existing data to identify possible redundancy among the 20 risk factors in the SARA. Third, we pilot tested the SARA for use by police in Sweden to determine the feasibility of assessing the 20 risk factors.

Based on the results of these activities, we developed a B-SAFER worksheet and user Manual. The B-SAFER comprises 10 risk factors. There are 5 risk factors related to the perpetrator's history of spousal violence:

1. serious physical/sexual violence;
2. serious violent threats, ideation, or intent;
3. escalation of physical/sexual violence or threats/ideations/intent;
4. violations of criminal or civil court orders; and
5. negative attitudes about spousal assault.

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In addition, there are 5 risk factors related to the perpetrator's history of psychological and social functioning:

6. other serious criminality;
7. relationship problems;
8. employment and/or financial problems;
9. substance abuse; and
10. mental disorder.

The B-SAFER also allows evaluators to identify unique case-specific risk factors. In addition to making ratings of individual risk factors, evaluators make a series of summary judgments regarding risks posed by the perpetrator.

EVALUATION OF THE B-SAFER

We pilot tested the B-SAFER for use by police in Canada and Sweden (Kropp and Hart 2004). In Canada, six different police agencies from five different cities forwarded a total of 50 cases. In Sweden, the Swedish National Police forwarded a total of 283 cases. In addition to completing the B-SAFER, police in Canada and Sweden indicated the management strategies they used for each case. Police in Sweden also provided follow-up information concerning recidivism (i.e., new contacts with police related to intimate partner violence). Finally, 11 police officers in Canada provided detailed feedback.

"This suggests that the B-SAFER has predictive validity and may be helpful in guiding decisions about a case."

The statistical analyses of Canadian and Swedish cases yielded several major findings. First, most of the B-SAFER risk factors could be evaluated in a given case. In fewer than 10% of cases was a risk factor unable to be evaluated due to missing information. This suggests that the B-SAFER includes relevant risk factors present in spousal assault cases and that the tool can be coded easily by police officers in the course of routine investigations. Second, overall or summary ratings of risk were diverse. This suggests that police officers were able to use the B-SAFER coding instructions to make discriminations among perpetrators. Third, there was limited association between B-SAFER ratings and recommended management strategies, and there was substantial variability both within and among officers in their recommendations regarding management. This suggests that police officers' recommendations regarding case management were influenced by their judgments of risk; both the presence of individual risk factors and overall level of risk. Finally, both judgments of risk and case management strategies were related to recidivism among men being investigated for complaints of intimate partner violence in Sweden. This suggests that the B-SAFER has predictive validity and may be helpful in guiding decisions about a case.

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The feedback obtained from police officers was positive. Most officers found the tool helpful and easy-to-use. Some officers recommended or supported agency or even province-wide implementation of the B-SAFER in release decision making. The officers also offered suggestions for improving the B-SAFER.

SUMMARY AND CONCLUSIONS AND RECOMMENDATIONS

We developed a tool based on the SARA that criminal justice professionals can use to assess risk for spousal violence, which we called the B-SAFER. The B-SAFER shares two important strengths with the SARA. First, the B-SAFER uses a structured professional judgment or structured discretion approach that is appropriate for criminal justice contexts. Second, the content of the B-SAFER is firmly grounded in the professional and scientific literatures on spousal violence. But the B-SAFER also has two important advantages over the SARA when used in some criminal justice contexts. First, the B-SAFER is shorter in length than is the SARA, and so is less resource intensive to administer. Second, the content of the B-SAFER includes fewer items and less technical jargon related to mental disorder, and so requires less expertise to use.

"Based on our evaluation efforts to date, we conclude that the B-SAFER is an appropriate and valuable tool that can be used by law enforcement agencies."

Based on our evaluation efforts to date, we conclude that the B-SAFER is an appropriate and valuable tool that can be used by law enforcement agencies. Police officers found the B-SAFER helpful and easy to use in routine investigations of spousal assault complaints. In addition to helping them assess risks, the B-SAFER helped police to make risk management decisions. We also recommend the development of software to assist in the administration of the B-SAFER. According to the police officers who participated in the pilot testing, the availability of software that helps to make their jobs easier would greatly increase the likelihood that they will routinely use the B-SAFER. Similar software already has been developed for other risk assessment procedures, including the SARA. Finally, we recommend the development of training curricula, and continued research on the use of the B-SAFER in Canada. Further evaluation should examine the interrater and test-retest reliability of the B-SAFER, as well as the impact of the B-SAFER on the safety of victims of spousal violence.

Our detailed report of the development and evaluation of the B-SAFER is available from the Research and Statistics Division, Department of Justice Canada. The B-SAFER Worksheet and User Manual are available from Proactive Resolutions (Telephone: 1-877-585-9933; or www.proactive-resolutions.com).

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REFERENCES

Andrews, D. A., and J. Bonta. 2003. *The psychology of criminal conduct*. 3rd ed. Cincinnati: Anderson.

Belfrage, H. 1997. The interrater reliability of the HCR-20 scheme for risk assessment: A study of 6 clinicians' assessments of the same 43 patients. *Nordic Forensic Medicine* 3:79-81.

Canadian Centre for Justice Statistics. 2003. *Family violence in Canada: A statistical profile, 2003*. Ottawa: Industry Canada.

Douglas, K., and P. R. Kropp. 2002. A prevention-based paradigm for violence risk assessment: Clinical and research applications. *Criminal Justice and Behaviour* 2:617-658.

Douglas, K. S., and C. D. Webster. 1999. Predicting violence in mentally and personality disordered individuals. In *Psychology and law: The state of the discipline*, ed. R. Roesch, S. D. Hart, and J. R. P. Ogloff, 175-239. New York: Plenum.

Grann, M., and I. Wedin. 2002. Risk factors for recidivism among spousal assault and spousal homicide offenders. *Psychology, Crime and Law* 8:5-23.

Grove, W. M., and P. E. Meehl. 1996. Comparative efficiency of informal (subjective, impressionistic) and formal (mechanical, algorithmic) prediction procedures: The clinical-statistical controversy. *Psychology, Public Policy, and Law* 2:293-323.

Hanson, R. K., and K. Morton-Bourgon. 2004. *Predictors of sexual recidivism: An updated meta-analysis. User Report 2004-02*. Ottawa: Public Works and Government Services Canada.

Hilton, N. Z., G. T. Harris, M. E. Rice, C. Lang, and C. A. Cormier. 2004. A brief actuarial assessment for the prediction of wife assault recidivism: The ODARA. *Psychological Assessment* 16:300-312.

Kropp, P. R., and S. D. Hart. 2000. The Spousal Assault Risk Assessment (SARA) Guide: Reliability and validity in adult male offenders. *Law and Human Behaviour* 24:101-118.

Kropp, P. R., and S. D. Hart. (2004) *The development of the Brief Spousal Assault Form for the Evaluation of Risk (B-SAFER): A tool for criminal justice professionals*. Ottawa: Research and Statistics Division, Department of Justice Canada

Kropp, P. R., S. D. Hart, and H. Belfrage. 2004. *The Brief Spousal Assault Form for the Evaluation of Risk: B-SAFER*. Vancouver: Proactive Resolutions.

Kropp, P. R., S. D. Hart, C. D. Webster, and D. Eaves. 1994. *Manual for the Spousal Assault Risk Assessment Guide*. Vancouver: British Columbia Institute on Family Violence.

STRUCTURING JUDGMENTS...
continued...

Kropp, P. R., S. D. Hart, C. D. Webster, and D. Eaves. 1995. *Manual for the Spousal Assault Risk Assessment Guide*. 2nd ed. Vancouver: British Columbia Institute on Family Violence.

Kropp, P. R., S. D. Hart, C. D. Webster, and D. Eaves. 1999. *Spousal Assault Risk Assessment Guide (SARA)*. Toronto: Multi-Health Systems.

Quinsey, V. L., G. T. Harris, G. T. Rice, and C. A. Cormier. 1998. *Violent offenders: Appraising and managing risk*. Washington, DC: American Psychological Association.

Upcoming Issue of *JustResearch*

We are now accepting submissions for the next Issue of *JustResearch* on the broad theme of ***New and Emerging Justice Issues***. There have been a number of new areas of research within the Department of Justice Canada, as well as within the broader justice research community, that would fit well within this theme. Recent examples include trafficking in persons, identity theft, new *Criminal Code* offences (e.g., luring a child [s. 172.1]), human genetics and privacy issues, fetal alcohol spectrum disorder, marijuana grow-operations, criminal interest rates, and same-sex marriage. This list, however, is by no means exhaustive. There are numerous other research areas that would fit well within this theme.

If you would like to submit an article, please refer to the Submission Guidelines for Prospective Authors on page 2 and then send your contribution electronically to jlatimer@justice.gc.ca by the appropriate deadline.

Child Sexual Exploitation in Canada: Incidence, Sentencing and Recidivism

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INTRODUCTION

The past two decades have given rise to an increased level of understanding and awareness concerning the sexual exploitation of children. In Canada, there are three broad categories of criminal behaviour which can be grouped under the term child sexual exploitation (CSE): child sexual abuse, child pornography, and child prostitution. These categories, however, are clearly not mutually exclusive. For example, child sexual abuse victims are often also victims of child pornography. For the purposes of this article, however, the three categories will be presented as three distinct types of criminal behaviour.

This article represents a brief quantitative summary of existing adult criminal court data on child sexual exploitation cases in Canada. The three main research questions are:

1. How many cases of CSE are processed in adult criminal courts?
2. How do the courts respond to the incidence of CSE?
3. What is the recidivism rate of CSE offenders?

"In Canada, there are three broad categories of criminal behaviour which can be grouped under the term child sexual exploitation CSE: child sexual abuse, child pornography, and child prostitution."

METHOD

In order to answer these questions, data from the Adult Criminal Court Survey (ACCS), which is managed by the Canadian Centre for Justice Statistics, Statistics Canada, will be used. Please note that these data will undercount the true prevalence of child sexual exploitation as a large proportion of child sexual exploitation incidents are not reported to police or child welfare authorities (Latimer 1998).

It also is important to understand that most of the data contained in this article are presented according to the *most serious offence* in a case based upon a method developed by the Canadian Centre for Justice Statistics. Therefore, some incidents of child sexual exploitation will not be captured herein if there was another offence associated with the same case that was deemed more serious. For example, if an accused was charged with sexual interference and attempted murder, the attempted murder would be considered the most serious offence and the sexual interference charge would therefore not be recorded as a case of CSE. In the section on recidivism, however, please note that this rule does not apply. Cases of child sexual exploitation were identified even if there was a more serious offence in the case, in order to understand offending patterns for anyone who has been convicted of a sexual offence against a child.

CHILD SEXUAL EXPLOITATION... continued...

Finally, the data in this report does not represent the entire country. New Brunswick and British Columbia only began reporting to the ACCS in 2001/2002, increasing the survey coverage from 80% to 90% of the national adult criminal court caseload. Manitoba does not yet report to the ACCS. In the section on recidivism, Manitoba, New Brunswick, and British Columbia have been excluded as a result of this limitation. The Northwest Territories has also been excluded from the recidivism analysis due to coverage issues since the creation of Nunavut.

RESULTS

Question 1: How many cases of CSE are processed in adult criminal courts?

"In 2002/2003, there were a total of 2,854 cases of child sexual exploitation in Canada."

In 2002/2003, there were a total of 2,854 cases of child sexual exploitation in Canada. Table 1 provides court-based data from the ACCS on the number of cases that were processed in Canadian adult courts over a five-year period. Since these data are not comparable across years due to coverage limitations, it is not possible to discuss trends. Between 2001/2002 and 2002/2003, however, the same number of jurisdictions

Table 1
Prevalence of Child Sexual Exploitation Cases in Adult Criminal Court

	1998/1999		1999/2000		2000/2001		2001/20002		2002/2003	
	N	% Ind	N	% Ind	N	% Ind	N	% Ind	N	% Ind
Child Sexual Abuse										
Sexual interference - s. 151	1,589	52%	1,494	52%	1,473	50%	1,596	57%	1,792	54%
Invitation to sexual touching - s. 152	211	41%	186	48%	201	48%	267	53%	280	55%
Sexual exploitation - s.153	285	53%	248	48%	245	56%	301	50%	353	50%
Incest - s.155	66	-	44	-	47	-	49	-	42	-
Anal intercourse - s.159	71	50%	57	50%	26	42%	43	51%	42	53%
Bestiality with person under 14 - s.160(3)	0	0%	0	0%	1	0%	0	0%	0	0%
Exposure to person under 14 - s.173(2)	49	-	58	-	56	-	57	-	63	-
Permitting sexual activity under 18 - s.171	13	-	7	-	4	-	8	-	3	-
Sub-Total	**2,284**	**51%**	**2,094**	**47%**	**2,053**	**50%**	**2,321**	**55%**	**2,575**	**53%**
Child Prostitution										
Living off the avails - s.212 (2) & (2.1)	10	-	20	-	12	-	12	-	17	-
Communicates for the purpose - s.212(4)	58	-	53	-	35	-	36	-	29	-
Parent procuring sexual activity - s.170	3	-	1	-	3	-	4	-	0	-
Sub-Total	**71**	-	**74**	-	**50**	-	**52**	-	**46**	-
Child Pornography										
Production/posses s for purposes - s.163.1(2)	8	33%	12	36%	12	0%	18	55%	18	67%
Distribution/transmission - s.163.1(3)	19	53%	14	80%	14	71%	26	55%	28	64%
Possession/accessing - s.163.1(4) & (4.1)	70	46%	59	38%	35	40%	134	48%	187	54%
Sub-Total	**97**	**47%**	**85**	**45%**	**61**	**41%**	**178**	**50%**	**233**	**56%**
Total	**2,452**	**52%**	**2,253**	**48%**	**2,164**	**50%**	**2,551**	**55%**	**2,854**	**54%**

1. Since accessing child pornograph y [s. 163.1(4.1)] came into force July 23, 2002, it is unlikely that any of the possessi on/accessing cases were accessing only.
2. Percentage indictable (% Ind) is provided only for hybrid offences and is an estimate since the Crown election was unknown in a small number of cases.
3. Source: Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

CHILD SEXUAL EXPLOITATION... continued...

reported to the ACCS. During this time, there was an overall increase of 12% in child sexual exploitation cases with a 12% increase in the number of sexual interference cases and a 17% increase in the number of sexual exploitation cases. The proportion of cases that proceeded through an indictment was relatively consistent (i.e., approximately 50% or more) across the time periods.

Question 2: How do the Canadian courts respond to the incidence of CSE?

Table 2 provides information on the most serious decision in a case in 2002/2003 using the following hierarchy: guilty, acquitted, stayed/withdrawn, and other. The overall conviction rate for cases of child sexual exploitation in Canada in 2002/2003 was 38.5%, which is much lower

Table 2
Most Serious Decision in Cases of Child Sexual Exploitation (2002/2003)

	Guilty		Acquitted		Stayed/Withdrawn		Other	
	N (row%)	% Ind	N (row%)	% Ind	N (row%)	% Ind	N (row%)	% Ind
Child Sexual Abuse								
Sexual interference - s. 151	669 (37.3%)	65%	155 (8.6%)	66%	741 (41.3%)	39%	227 (12.7%)	67%
Invitation to se xual touching - s. 152	113 (40.4%)	55%	10 (3.6%)	75%	124 (44.3%)	47%	33 (11.8%)	74%
Sexual exploitation - s.153	110 (31.2%)	60%	25 (7.1%)	67%	178 (50.4%)	37%	40 (11.3%)	71%
Incest - s.155	16 (38.1%)	-	1 (2.4%)	-	17 (40.5%)	-	8 (19.0%)	-
Anal intercou rse - s.159	3 (7.1%)	67%	2 (4.8%)	100%	36 (85.7%)	47%	1 (2.4%)	100%
Bestiality with person under 14 - s.160(3)	0 (0.0%)	0%	0 (0.0%)	0%	0 (0.0%)	0%	0 (0.0%)	0%
Exposure to person under 14 - s.173(2)	32 (50.8%)	-	4 (6.3%)	-	25 (39.7%)	-	2 (3.2%)	-
Permitting sexual activity under 18 - s.171	1 (33.3%)	-	0 (0.0%)	-	2 (66.7%)	-	0 (0.0%)	-
Child Prostitution								
Living off the avails - s.212(2) & (2.1)	2 (11.8%)	-	1 (5.9%)	-	12 (70.6%)	-	2 (11.8%)	-
Communicates for the purpose - s.212(4)	16 (55.2%)	-	1 (3.4%)	-	11 (38.0%)	-	1 (3.4%)	-
Parent procuring sexual activity - s.170	0 (0.0%)	-	0 (0.0%)	-	0 (0.0%)	-	0 (0.0%)	-
Child Pornography								
Production/possess for purposes - s.163.1(2)	8 (34.8%)	100%	2 (8.7%)	0%	11 (47.8%)	33%	2 (8.7%)	100%
Distribution/transmission - s.163.1(3)	15 (54.6%)	75%	0 (0.0%)	0%	11 (39.3%)	55%	2 (7.1%)	50%
Possession/accessing - s.163.1(4) & (4.1)	113 (60.4%)	64%	1 (0.5%)	0%	51 (27.2%)	34%	22 (11.8%)	61%
Total	**1,098 38.5%)**	**62%**	**202 (7.0%)**	**65%**	**1,214 (42.6%)**	**41%**	**340 (11.9%)**	**67%**

1. Since accessing child pornography (s. 163.1(4.1)) came into force July 23, 2002, it is unlikely that any of the possession/accessing cases were accessing only.
2. The 'Other' category inc ludes all other decisions such as Not Criminally Responsible and Unfit to Stand Trial.
3. Percentage indictable (% Ind) is provided only for hybrid offences and is an estimate since the Crown election was unknown in a small number of cases.
4. Percentages do no t always total 100% due to rounding error.
5. Source: Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

CHILD SEXUAL EXPLOITATION... continued...

than the general conviction rate in adult court (60%), lower than the conviction rate for violent offences (50%), and slightly lower than the conviction rate for sexual assault cases (41%).

Cases that proceeded by way of an indictment were less likely to be stayed or withdrawn (41%) compared to cases that proceeded summarily (59%). Cases where the most serious offence was possessing or accessing child pornography had the highest conviction rate (60.4%), followed by communicating with a child for the purposes of prostitution (55.2%), distributing child pornography (54.6%), and exposure to a person under 14 years of age (50.8%). Cases of anal intercourse and living off the avails of prostitution were rarely convicted in adult court. The conviction rate for the remaining offences ranged from approximately 30% to 40%.

Table 3 provides information on the most serious sentence in a case from the year 2002/2003 based upon the following hierarchy: custody, conditional sentence, probation, fine, and other. For example, if an offender received both custody and probation, the most serious sentence in that case would be custody. Almost half (47.2%) of all child sexual exploitation cases resulting in a guilty decision received a custodial sentence while 29.1% resulted in probation and 21.5% resulted in a conditional sentence. In comparison, 47% of all sexual assault cases in the ACCS received custody, 32% received probation, and 15% received a conditional sentence. When looking at all convicted cases in the ACCS, we can see that the numbers are somewhat different: 35% of cases received custody, 30% received probation, and only 4% received a conditional sentence.

"Generally, broader definitions of recidivism, higher risk samples, and longer follow-up periods produce higher recidivism rates."

CSE cases that proceeded by way of an indictment were much more likely to receive custody (72%) compared to those cases that proceeded summarily (28%). When examining offences for which there were five or more cases in a cell in Table 3, we notice that incest was the most likely offence to receive a custodial sentence (87.5%), followed by invitation to sexual touching (57.5%) and sexual interference (49.7%). Exposure to a person under the age of 14 years was the least likely offence to receive custody (19.4%).

Question 3: What are the recidivism rates of CSE offenders?

Before such a question can be answered, three important methodological factors need to be discussed. In any study of recidivism, the results will vary depending on the definition of recidivism, the sample of offenders, and the follow-up periods used in the research. Generally, broader definitions of recidivism, higher risk samples, and longer follow-up periods produce higher recidivism rates. Therefore, the results of the existing research provide conflicting and varied answers to this question depending on the method utilised. That being said, however, the existing Canadian literature does provide some indication of the recidivism rates among child sexual exploitation offenders.

CHILD SEXUAL EXPLOITATION... continued...

Before exploring the recidivism of CSE offenders, it is useful for comparative purposes to examine the general recidivism rate of all offenders. In a recent study, the general recidivism rate for federal offenders (i.e., offenders serving custodial sentences of two years or more) was reported at approximately 44% within two years of their release (Bonta et al. 2003).

Harris and Hanson (2004), in their extensive summary of existing data sources, found that within five years, the sexual recidivism rate for general sexual offenders was 14%, and by 15 years, this number had increased to 24%. Harris and Hanson (2004) further examined types of sexual offenders (e.g., rapists, incest offenders, molesters) after 15 years and found that CSE incest offenders (intra-familial) had a much lower

Table 3
Most Serious Sentence in Cases of Child Sexual Exploitation (2002/2003)

	Custody		Conditional Sentence		Probation		Other	
	N (row%)	% Ind	N (row%)	% Ind	N (row%)	% Ind	N (row%)	% Ind
Child Sexual Abuse								
Sexual interference - s. 151	330 (49.7%)	73%	137 (20.6%)	68%	184 (27.7%)	49%	13 (2.0%)	46%
Invitation to sexual touching – s. 152	65 (57.5%)	63%	15 (13.3%)	67%	33 (29.2%)	31%	0 (0.0%)	0%
Sexual exploitation - s.153	50 (45.9%)	68%	27 (24.8%)	44%	30 (27.5%)	43%	2 (1.8%)	50%
Incest - s.155	14 (87.5%)	-	1 (6.3%)	-	1 (6.3%)	-	0 (0.0%)	-
Anal intercourse – s.159	2 (66.7%)	50%	0 (0.0%)	0%	1 (33.3%)	100%	0 (0.0%)	0%
Bestiality with person under 14 - s.160(3)	0 (0.0%)	0%	0 (0.0%)	0%	0 (0.0%)	0%	0 (0.0%)	0%
Exposure to person under 14 – s.173(2)	6 (19.4%)	-	3 (9.7%)	-	21 (67.7%)	-	1 (3.2%)	-
Permitting sexual activity under 18 - s.171	0 (0.0%)	-	0 (0.0%)	-	0 (0.0%)	-	1 (100.0%)	-
Child Prostitution								
Living off the avails - s.212(2) & (2.1)	1 (50.0%)	-	0 (0.0%)	-	1 (50.0%)	-	0 (0.0%)	-
Communicates for the purpose - s.212(4)	6 (42.9%)	-	0 (0.0%)	-	8 (57.1%)	-	0 (0.0%)	-
Parent procuring sexual activity - s.170	0 (0.0%)	-	0 (0.0%)	-	0 (0.0%)	-	0 (0.0%)	-
Child Pornography								
Production/possess for purposes - s.163.1(2)	2 (25.0%)	100%	1 (12.5%)	100%	3 (37.5%)	100%	2 (25.0%)	0%
Distribution/transmission - s.163.1(3)	3 (21.4%)	100%	6 (42.9%)	100%	5 (35.7%)	0%	0 (0.0%)	0%
Possession/accessing - s.163.1(4) & (4.1)	35 (31.3%)	61%	42 (37.5%)	79%	30 (26.8%)	47%	5 (4.5%)	0%
Total	**514 (47.2%)**	**72%**	**234 (21.5%)**	**68%**	**317 (29.1%)**	**44%**	**23 (2.2%)**	**33%**

1. Since accessing child pornography (s. 163.1(4.1)) came into force July 23, 2002, it is unlikely that any of the possession/accessing cases were accessing only.
2. The 'Other' category includes all other sentences such as fines, conditional discharges, restitution, or suspended sentences.
3. The row total does not always add up to the total number of convictions from Table 2, as some sentences were unknown.
4. Percentage indictable (% Ind) is provided only for hybrid offences and is an estimate since the Crown election was unknown in a small number of cases.
5. Percentages do not always total 100% due to rounding error.
6. Source: Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

CHILD SEXUAL EXPLOITATION... continued...

rate of sexual recidivism (13%), while CSE offenders who molested girl victims (extra-familial) demonstrated a 16% sexual recidivism rate and CSE offenders who molested boy victims (extra-familial) demonstrated a 35% sexual recidivism rate.

Langevin et al. (2004) recently published a study of 320 sexual offenders who were seen for psychiatric assessment between 1966 and 1974, using a 25-year follow-up period. The authors reported that 88% of the offenders had sexually re-offended within the follow-up period. This is obviously much higher than Harris and Hanson's (2004) figure of 24%. As noted previously, however, there are differences in method that may account for much of the discrepancy.

First, Langevin et al. (2004) included convictions, charges, court appearances and self-reported criminal behaviour found in hospital records in their definition of recidivism while Harris and Hanson (2004) used official charges and convictions only. It is not surprising that using a broader definition of recidivism produces higher recidivism rates. Second, Langevin et al. (2004) used a sample of psychiatric patients which diminishes the generalizability of the findings to all sexual offenders. This sample consists of offenders who were assessed for a psychiatric illness and, as such, likely represents an unique sub-group of sexual offenders. Harris and Hanson's (2004) sample was primarily comprised of offenders released from custodial facilities and therefore may be more representative of the general sexual offender population.

"...a study of 320 sexual offenders...using a 25-year follow-up period...reported that 88% of the offenders had sexually re-offended within the follow-up period."

Hanson et al. (1995), using a 15-30 year follow-up period with CSE offenders only, reported a 42% recidivism rate for any new sexual and/or violent crime. The 42% recidivism rate for CSE offenders was much lower than the 88% reported in the Langevin et al. (2004) study although the time periods were roughly similar. The difference may again be related to the definition of recidivism and the characteristics of the sample, as Hanson et al. (1995) used reconvictions to measure recidivism and sampled only CSE offenders released from prison.

In order to provide a recidivism rate that would be more generalizable to the entire CSE offender population, data from the Adult Criminal Court Survey, which covers virtually all criminal convictions across Canada, were analysed. All offenders convicted of a CSE offence in 1998/1999 were selected for this analysis.[5] Since these were essentially all of the available cases in the eight provinces and territories reporting to the ACCS for that year, it is likely these results would be highly generalizable to child sexual exploitation offenders in general. In order to measure recidivism, the first new conviction within five years of the original

[5] All convictions were selected from the ACCS database during the reference year 1998/99 except for cases where the accused was missing an identifier, the sex of the accused was unknown, the accused was a corporation, or the date of birth of the accused was missing. This was necessary as these were used to link records and calculate recidivism rates.

CHILD SEXUAL EXPLOITATION... continued...

conviction date was identified.[6] This provided all offenders in the sample with the same five-year window for the conviction of a new offence following their child sexual exploitation conviction.[7] In addition to general recidivism rates, violent non-sexual recidivism rates, sexual recidivism rates, and child sexual exploitation recidivism rates were calculated. It is important to identify the type of recidivism, as offenders may be reconvicted of rather minor crimes, such as offences against the administration of justice (e.g., probation violation) or theft, which do not pose the same level of risk to society.

The results in Table 4 indicate that 29% of CSE offenders were convicted of a new offence during the five-year follow-up period. A smaller proportion were convicted of a new violent or sexual offence - 9% of CSE offenders were convicted of a new violent non-sexual offence, 4% were convicted of a new sexual offence, and 3% were convicted of a new child sexual exploitation offence. These rates are significantly lower than those reported in the literature (e.g., Langevin et al. 2004; Hanson et al. 1995).

"...results...indicate that 29% of CSE offenders were convicted of a new offence during the five-year follow-up period."

There are several probable explanations for the reduced recidivism rates contained in Table 4 compared to the rates found in other Canadian research. First, recidivism is defined as a new conviction, while other studies have used convictions, charges, and self-report information from mental health records. As discussed previously, since not all child sexual offences come to the attention of authorities, using convictions generally produces lower rates of recidivism. Second, the sample of offenders is essentially all child sexual exploitation offenders in 1998/1999, thus including those offences at both the low- and high-end of the seriousness spectrum and those offenders at the low- and high-end of the risk spectrum. In previous research, samples have typically been drawn from psychiatric populations or prison populations and, therefore, likely included higher risk offenders. Third, the five-year follow-up period, while relatively long and acceptable for measuring recidivism, was not nearly as long as those found in many of the published studies (e.g., 15 years). Finally, due to the data linkage method used in calculating recidivism rates, it is possible that a small number of offenders were not identified as recidivists.

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6 It should be noted that it is possible that the linkage procedure may not have identified all cases of recidivism if, for example, the accused changed his/her name or if there were errors in data capture procedures. As well, treason and first- and second-degree murder are under the exclusive jurisdiction of superior courts and the data coverage for superior courts is quite limited in the ACCS. As such, it is possible that reconvictions for first- or second-degree murder are missing from this analysis. In addition, there was no cross-jurisdiction matching: recidivism was based on convictions in the same province/territory where the original CSE conviction occurred.

7 Although the window of opportunity was the same (i.e., five years), it should be noted that many offenders were incarcerated for the original offence and, as such, not all the offenders were at the same level of risk for re-offending.

CHILD SEXUAL EXPLOITATION... continued...

A second point to consider when looking at recidivism rates is the impact of sentencing. Recent research using meta-analytic techniques, which aggregate a substantial number of previously conducted studies, has consistently demonstrated that custodial sentences are associated with slight increases in recidivism compared to non-custodial sentencing options (Gendreau et al. 1999; Smith et al. 2002). Furthermore, these same meta-analyses demonstrate that longer custodial sentences are also associated with slight increases in recidivism compared to shorter custodial sentences. Both these differences, however, diminish when the data are weighted according to sample size. Nonetheless, there is clearly no evidence to suggest that prison reduces the likelihood of recidivism. In fact, within a random sample of young offenders from youth court in Toronto and Halifax, Latimer and Dowden (2005) found that youth who received custodial sentences were twice as likely to be convicted of a new offence within three years compared to youth who received non-custodial sentences, even after controlling for criminal history, age, gender and the seriousness of the offence.

"...custodial sentences are associated with slight increases in recidivism compared to non-custodial sentencing options..."

The ACCS recidivism data further supports this relationship between custody and increased recidivism. Among those CSE offenders who had no prior convictions in adult court before their CSE offence in 1998/99 (i.e., first-time offenders), 22% of those who received a custodial sentence had a new conviction in the five-year follow-up period compared to 16% of those who received a non-custodial sentence. Of those CSE offenders who had at least one prior conviction before their

Table 4
Five-Year Recidivism Rates for Child Sexual Exploitation Offenders (1998/1999 to 2003/2004)

	Total	Non-Recidivists	General Recidivists	Violent Non-Sexual Recidivists	Sexual Recidivists	Child Sexual Exploitation Recidivists
	N (column %)	N (row%)	N (row%)	N (row%)	N (row%)	N (row%)
Child Sexual Abuse						
Sexual interference - s. 151	544 (66.7%)	375 (68.9%)	169 (31.1%)	53 (9.7%)	23 (4.2%)	17 (3.1%)
Invitation to sexual touching - s. 152	84 (10.3%)	56 (66.7%)	28 (33.3%)	10 (11.9%)	3 (3.6%)	4 (4.8%)
Sexual exploitation - s.153	98 (12.0%)	77 (78.6%)	21 (21.4%)	4 (4.1%)	4 (4.1%)	1 (1.0%)
Incest - s.155	28 (3.4%)	23 (82.1%)	5 (17.9%)	1 (3.6%)	0 (0.0%)	1 (3.6%)
Other	13 (1.6%)	10 (76.9%)	3 (23.1%)	2 (15.4%)	1 (7.7%)	0 (0.0%)
Child Pornography						
Production/posses s for purposes - s.163.1(2)	4 (0.5%)	2 (50.0%)	2 (50.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
Distribution/transmission - s.163.1(3)	7 (0.9%)	7 (100%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
Possession - s.163.1(4)	38 (4.7%)	30 (78.9%)	8 (21.1%)	1 (2.6%)	2 (5.3%)	2 (5.3%)
Total	**816 (100%)**	**580 (71.1%)**	**236 (28.9%)**	**71 (8.7%)**	**33 (4.0%)**	**25 (3.1%)**

1. Other includes all other child sexual exploitation offences not contained in the table.
2. The recidivism flags are not mutually exclusive since all offences in a case were used in calculating recidivism rather than only the most serious offence; therefore, an offender may be counted in multiple recidivism groups.
3. Percentages may not always total 100% due to rounding error.
4. Source: Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Ca nada.

CHILD SEXUAL EXPLOITATION... continued....

CSE offence in 1998/98 (i.e., repeat offenders), 56% of those who received a custodial sentence had a new conviction in the five-year follow-up period compared to 43% of those who received a non-custodial sentence. Therefore, these data suggest that those CSE offenders who receive custody tend to have higher rates of recidivism compared to those accused who receive non-custodial sentences regardless of their criminal history, which is one of the strongest predictors of recidivism. It is important to note, however, that this analysis did not control for other factors that may explain differences in recidivism, such as the seriousness of the CSE offence and characteristics of the accused (e.g., criminogenic needs, age, gender).

CONCLUSIONS

The following conclusions can be made based upon analysis of ACCS data and the limited literature reviewed for this article:

1. Child sexual exploitation cases are less likely to result in a conviction (38.5%) compared to the general conviction rate for all offences (60%) or the conviction rate for all violent offences (50%). It is similar, however, to the conviction rate for all sexual assault cases (41%).
2. Two-thirds of child sexual exploitation cases (68.7%) receive either a custody sentence (47.2%) or a conditional sentence of custody (21.5%) as the most serious sentence.
3. The Crown election is directly related to the severity of the criminal sanction, in that cases that proceed by way of an indictment are more likely to receive a more serious sentence.
4. Recidivism rates are directly impacted by the method employed to calculate them, in that broader definitions of recidivism, longer follow-up periods, and higher risk samples produce higher recidivism rates.
5. Approximately 29% of CSE offenders were reconvicted of a new offence in adult court within five years of their original child sexual exploitation conviction.
6. Only 3% of CSE offenders were convicted of a new child sexual exploitation offence within five years of their original CSE conviction.
7. There is no evidence to suggest that custodial sentences are related to decreases in recidivism.

CHILD SEXUAL EXPLOITATION...
continued...

REFERENCES

Bonta, J., T. Rugge, and M. Dauvergne. 2003. *The recidivism of federal offenders*. Ottawa: Solicitor General Canada.

Gendreau, P., C. Goggin, and F. Cullen. 1999. *The effects of prison sentences on recidivism*. Ottawa: Solicitor General Canada.

Hanson, R. K., H. Scott, and R. Steffy. 1995. A comparison of child molesters and non-sexual criminals: Risk predictors and long-terms recidivism. *Journal of Research in Crime and Delinquency* 32:325-337.

Harris, A., and R. K. Hanson. 2004. *Sex offenders recidivism: A simple question*. Ottawa: Solicitor General Canada.

Langevin, R., S. Curnoe, P. Fedoroff, R. Bennett, M. Langevin, C. Peever, R. Pettica, and S. Sandhu. 2004. Lifetime sex offender recidivism: A 25-year follow-up study. *Canadian Journal of Criminology and Criminal Justice* 46:531-552.

Latimer, J. 1998. *The consequences of child maltreatment: A reference guide for health practitioners*. Ottawa: Health Canada.

Latimer, J., and C. Dowden. 2005. Sentencing in youth court: The effect of custody on recidivism. Manuscript submitted for publication.

Smith, P., C. Goggin, and P. Gendreau. 2002. *The effects of prison sentences and intermediate sanctions on recidivism: General effects and individual differences*. Ottawa: Solicitor General Canada.

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Legal Problems and Vulnerable Groups in Canada

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INTRODUCTION

This paper draws on data from a larger study of problems with legal aspects experienced by low and moderate income Canadians. The main objectives of the study were to determine the incidence of law-related problems among this segment of the population and the social and demographic groups that are most vulnerable. The present paper reports some preliminary results related to the occurrence of problems among vulnerable groups and, in particular, respondents' feelings of unfairness about the outcomes of problems.

METHOD

A recent survey conducted for the Department of Justice Canada by the Environics Research Group examines the problems in civil law matters experienced by low and moderate income Canadians. The survey used a national sample of 4,501 respondents, who were interviewed by telephone in March 2004. The margin of error for a sample of this size is +/- 1.5 per cent 19 times out of 20. The survey was limited to low to moderate income Canadians. Respondents were included in the survey if they were 18 years of age or older and had incomes at or below $35,000 for individuals and below $50,000 for families.

"The main objectives of the study were to determine the incidence of law-related problems among [low and moderate income Canadians]."

The problem identification part of the questionnaire contained 15 problem categories: consumer, employment, money and debt, income assistance, disability pensions, housing, immigration, discrimination, treatment by the police, threat of legal action, family problems related to divorce or separation and children, other family-related problems, wills and powers of attorney, personal injury and hospitalization. Data were collected on 76 specific problems within the 15 problem categories.[8]

Respondents were asked to indicate if, within the past three years, they had experienced any of the specific problems included on a list read to them by the interviewers. Respondents were asked to include only those problems they considered difficult to resolve. The respondents were then asked about their seeking assistance with problems. For this part, in order to reduce the interview time to an acceptable level, up to three specifically identified problems were chosen at random for each respondent.

[8] After having been asked about the 76 specific types of problems, respondents were asked if there were any other types of problems that had been missed. A small number of respondents responded in the affirmative. However, none of the other problems identified were different from the 76 explicit problem types. It is assumed on the basis of this result that the problems covered are a comprehensive profile of civil law problems affecting Canadians.

LEGAL PROBLEMS...
continued...

It is important to note that the respondents were not asked to identify "legal" problems. This was because it cannot be assumed that people will recognize in all cases that their problems have a legal aspect and a legal solution. In a statement that has now become the orthodoxy of the legal needs literature, Philip Lewis observed that saying a person has a legal problem is more a statement of one option for resolving the problem than about the nature of that problem. "A tenant with a leaking roof may be regarded as having a legal problem. However, he may choose to get a ladder and not a lawyer" (Lewis 1973, 79). Rather, respondents were asked if they had experienced problems that were difficult to resolve, based on a pre-selected list of problems that have legal aspects and possible legal solutions. The pre-selected list of problems assured the existence of legal content. Respondents were neither asked to make judgments about the legal nature of their problems nor about any possible solution.

RESULTS

"Almost 48 per cent...of the low to moderate income population in Canada experienced one or more law-related problems..."

Almost 48 per cent (47.7 %) of the low to moderate income population in Canada experienced one or more law-related problems during the three-year reference period.[9] This is higher than the 34 to 37 per cent reported in the surveys in England and Wales. It is about the same as the results of the American research carried out about ten years ago and lower than the results of the research in the Netherlands.

Multiple Problems

Problems do not occur uniformly throughout the study population. A significant number of people experienced multiple problems. The table below shows the number of respondents reporting varying numbers of problems.

Table 1
Incidence of Problems

Number of Problems	Frequency	Percent
None	2352	52.3
One	954	21.2
Two	561	12.5
Three	295	6.6
Four	141	3.1
Five	87	1.9
Six	60	1.3
Seven or More	51	1.1

9 The research carried out in the UK employing in-person interviews appears to produce lower results that studies using telephone interviews, as in the Canadian and US research or the internet-based methodology used in a Dutch study. This raises the possibility that the methodology influences the results, perhaps because the people who are willing to respond to telephone surveys are more likely to have problems and be willing to talk about them

LEGAL PROBLEMS...
continued...

About half of respondents reported they had no difficult problems during the study period. Among those reporting problems, one-fifth experienced only one problem. The percentage of respondents experiencing larger numbers of problems diminished with the number of problems reported.

Certain subgroups within the sample showed a fairly strong tendency to report at least some problems they considered difficult to resolve. This section summarizes the groups within the sample that were most likely to report experiencing no problems compared with one or more problems. Odds ratios are used to indicate the likelihood that respondents in certain groups are more likely to experience problems than others.

"Respondents in the 29 to 45 age group were 2.0 times more likely than all others to report problems..."

- Respondents in the 29 to 45 age group were 2.0 times more likely than all others to report problems (p=.0001).
- Generally speaking, the lower the educational level the less likely respondents were to report problems. People with less than high school education were 0.5 times, or half, as likely as all other educational groups to report experiencing one or more problems (p=.0001). This compares with respondents with some post-secondary education who were 1.5 times more likely to report problems (p=.0001) and respondents with a university degree who were 1.4 (p=.0001) times more likely than others to report problems. The lesser tendency for the lowest educational group may be less a reflection of fewer problems than less of a tendency to report them.
- Single parents were 2.3 times more likely than all others to report problems (p=.0001) compared with singles who were only 0.8 times (p=.0001) and couples who were 0.6 times (p=.0001) as likely to report experiencing problems.
- The unemployed were 2.4 times more likely than others to report at least one problem (p=.0001).

"Respondents whose major source of income was a disability pension were 2.8 times more likely than all others to report experiencing problems..."

- Respondents whose major source of income was a disability pension were 2.8 times more likely than all others to report experiencing problems (p =.0001).
- Respondents receiving social assistance payments were 2.1 times more likely to report one or more problems (p=.0001).
- Aboriginal people and members of visible minority groups were slightly more likely to report at least one problem. Respondents self-reporting as visible minorities were 1.6 times more likely than others to report at least one problem (p=.0001) and Aboriginal people were 1.4 times more likely (p=.0001).

LEGAL PROBLEMS...
continued...

A logistic regression procedure was used to examine which variables have the strongest predictive value for experiencing problems. Being young, a single parent, self-reporting as a member of a visible minority group, and receiving social assistance are the four best predictors of the likelihood of experiencing one or more problems.

Table 2
Characteristics Predicting One or More Problems

Best Predictor Variables	Wald Chi-Square	Probability	Odds Ratio
Age 18-29	30.125	.0001	2.3
Single Parent	17.322	.0001	1.6
Visible Minority	15.968	.0001	1.4
Receiving Social Assistance	47.031	.0001	1.8
R-squared = .18, Likelihood Ratio 535.9, p = .0001			

The Outcomes of Problems

"Among unresolved problems, respondents indicated that the situation had become worse in 46.1 per cent of problems."

The study asked respondents if the problems they had experienced during the three-year reference period had been resolved. If the problem had not been resolved, they were asked if the situation had become worse. If the problem had been resolved, they were asked if the outcome was perceived as fair. Overall, respondents indicated that 33.9 per cent of the time, the problem remained unresolved. Among unresolved problems, respondents indicated that the situation had become worse in 46.1 per cent of problems. Among resolved problems respondents reported that the outcome was unfair in 29.5 per cent of the time.

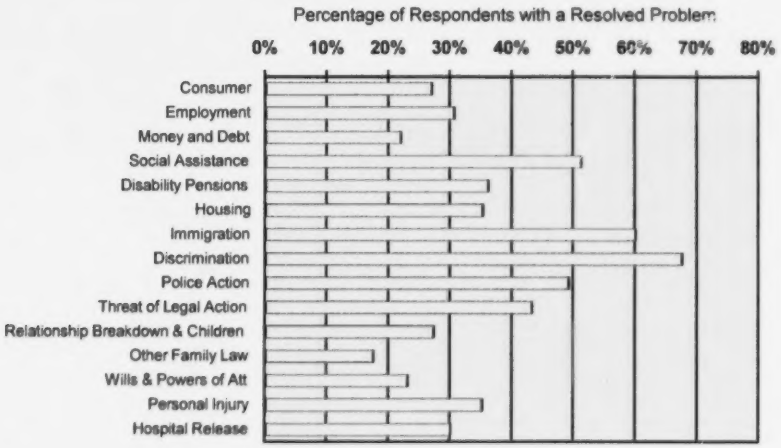
Perceptions of Fairness

The level of perceived unfairness is an important issue. Figure 1 shows the perceived level of unfairness of outcomes for specific problem types. According to Rawls (1999), the idea of fairness is fundamental to the concept of justice people have. Other authors have drawn a connection between the sense of fairness or justice and social cohesion. For example, Breton et al. (2004, 33) write:

> The sense of being treated fairly, of being given a fair chance, does much to determine the degree of attachment to the institutions, the communities, and the society in which people live their lives. Fair treatment nourishes loyalty to the society and makes people more willing to contribute to its functioning. In contrast, unfairness is socially destructive.

LEGAL PROBLEMS...
continued..

Figure1: Resolutions Perceived as Unfair



"When asked about fairness in more general terms, a national sample of Canadians indicated that 18 per cent felt that Canadian society was unfair, and 15 per cent reported personal feelings of unfairness..."

Only a small percentage of respondents sought or received legal or other assistance with their problems. Nonetheless, it is possible that the levels of perceived unfairness reflect a sense of injustice. When asked about fairness in more general terms, a national sample of Canadians indicated that 18 per cent felt that Canadian society was unfair, and 15 per cent reported personal feelings of unfairness (Breton et al. 2004). The percentage of respondents in the present study reporting a sense that the outcomes of their law-related problems were unfair were all higher than that, and in some cases, considerably higher. The figures reported in the present survey reflect the general and widespread sense of unfairness in the justice system reported in public opinion research. A survey conducted in 1992 by the Angus Reid Group (1992) found that 64 per cent of Canadians disagreed or disagreed strongly with the statement that "everyone, no matter who they are, is treated the same by the justice system in Canada." This directs our attention to the linkages between the provision of legal services to the poor, respect for the rule of law and confidence in the justice system by the public, and broader public policy issues relating to fairness, trust, and the maintenance of civil society.

Unfair Outcomes and Vulnerable Groups

Only three subgroups were more likely than others to perceive outcomes of problems that had been resolved as unfair: the unemployed, visible minorities, and foreign-born respondents.

- Visible minorities were 1.4 times more likely than all other respondents to perceive outcomes as unfair ($p=.004$).

LEGAL PROBLEMS...
continued...

- Foreign-born respondents were also 1.4 times more likely to perceive that the outcome of a resolved problem was unfair (p=.03).
- Respondents who were unemployed were 1.5 times more likely to report unfair outcomes (p=.001).

CONCLUSION AND DISCUSSION

The law is pervasive in modern bureaucratic societies, and in Canada, as is similar in other countries, problems with legal aspects are ubiquitous. For example, research has shown that about 34 percent (Genn 1999) to 37 percent (Pleasence et al. 2004) of the population of England and Wales has experienced one or more problems having legal implications that were difficult to resolve. A similar study carried out in Scotland estimates that about 24 percent of the population of that part of the U.K. had experienced one or more 'justiciable' problems (Genn and Paterson 2001). A study carried out in the U.S. estimates that 47 percent of low income Americans and 52 percent of moderate income Americans experienced at least one law-related problem over a three-year period (American Bar Association 1994). A more recent national study carried out in the Netherlands found that 67 percent of the sample experienced one or more 'justiciable' problems (Van Velthoven and Ter Voert 2004). Research on legal needs carried out in New Zealand in 1999 estimates that 51 % of the population experienced one or more problems within a three-year period (Maxwell et al. 1999). A study conducted in the Province of Ontario in 1987 found that about 34 % of the sample had experienced serious problems over a three-year period (Bogart and Vidman 1990).

"The research shows that certain vulnerable subgroups within the population have a greater likelihood than others of experiencing law-related problems."

The extent of problems with legal aspects in Canadian society makes this topic a matter for serious concern. The occurrence of problems is not spread equally among the population. The research shows that certain vulnerable subgroups within the population have a greater likelihood than others of experiencing law-related problems.

Problems tend to get resolved, most of them within a year or two of first occurrence. However, in a significant proportion of cases, respondents perceive the outcomes as being unfair. This finding has important implications for perceptions about the "justness" (i.e., fairness) of Canadian society by its citizens. Further, given the fundamental importance of justice as a dimension of all other social institutions, the perceptions of unfairness may weaken the fabric of social cohesion in Canadian society.

LEGAL PROBLEMS...
continued...

References

American Bar Association. 1994. *Legal needs and civil justice: A survey of Americans*. Washington, DC: American Bar Association.

Angus Reid Group. 1992. *Canada and the world: An international perspective on Canada and Canadians*. Winnipeg: Angus Reid Group.

Bogart, W. A., and N. Vidmar. 1990. Problems and experience with the Ontario civil justice system. In *Access to Civil Justice*, ed. A. Hutchinson. Toronto: Carswell.

Breton, R., N. J. Hartmann, J. L. Lennards, and P. Reed. 2004. *A fragile social fabric? Fairness, trust and commitment in Canada*. Kingston: McGill-Queens University Press.

Gabrielle, M., M. Maxwell, C. Smith, P. J. Shepherd, and A. Morris. 1999. *Meeting Legal Service Needs*. Wellington, NZ: New Zealand Legal Services Board.

Genn, H. 1999. *Paths to Justice: What people do and think about going to law*. London: Hart Publishing.

Genn, H., and A. Paterson. 2001. *Paths to Justice Scotland: What people do and think about going to law*. London: Hart Publishing.

Lewis, P. 1973. Unmet legal needs. In *Social Needs and Legal Action*, ed. P. Morris, R. White, and P. Lewis. London: Martin Robertson.

Rawls, J. 1999. *A theory of justice*. 2nd ed. Oxford: Oxford University Press.

Pleasence, P., A. Buck, N. Balmer, A. O'Grady, H. Genn, and M. Smith. 2004. *Causes of action: Civil law and social justice*. London: Legal Services Commission.

Van Velthoven, B. C. J, and M. Ter Voert. 2004. Paths to Justice in the Netherlands. Paper presented at the 5th International LRSC Conference, Cambridge.

Summary of the Multi-Site Survey of Victims of Crime and Criminal Justice Professionals across Canada

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BACKGROUND AND OBJECTIVES

The Multi-Site Survey of Victims of Crime and Criminal Justice Professionals Across Canada was a comprehensive survey conducted by PRA Inc. for the Policy Centre for Victim Issues and the Research and Statistics Division of the Department of Justice Canada. PRA Inc. were contracted to undertake this survey as part of the Victims of Crime Initiative. Launched in 2000, this initiative works to increase the confidence of victims in the criminal justice system and responds to the needs of victims of crime as they relate to the Department of Justice Canada.

"Launched in 2000, [the Victims of Crime Initiative] works to increase the confidence of victims in the criminal justice system and responds to the needs of victims of crime as they relate to the Department of Justice Canada."

In keeping with these aims, the Multi-Site Survey is one of the principal research projects of the Victims of Crime Initiative. It studied specific issues relating to the promotion of access to justice, fair treatment, and assistance for victims of crime in the criminal justice system. The primary emphasis of the survey was Bill C-79. Adopted in 1999, this bill made amendments to the *Criminal Code* to enhance the safety, security, and privacy of victims of crime in the criminal justice system. Bill C-79 also sought to provide victims a voice in criminal justice proceedings through victim impact statements (VIS). Related amendments to the Corrections and Conditional Release Act, implemented in 2001, gave victims an opportunity to give a prepared VIS at parole board hearings. The main objectives of the Multi-Site Survey were to gather information about:

"[The Multi-Site Survey] studied specific issues relating to the promotion of access to justice, fair treatment, and assistance for victims of crime in the criminal justice system."

a) the awareness and use of these legal provisions by criminal justice professionals;
b) the obstacles to implementation of these provisions for criminal justice professionals;
c) victims' experiences with these provisions and additional services meant for their benefit throughout the criminal justice process; and
d) the types of information and services provided to victims of crime participating in criminal justice processes.

The present article summarizes the methodology and findings of the Multi-Site Survey, providing glimpses of the depth and breadth of data available in this extensive research project. The survey's secondary focus on issues relating to restitution, conditional sentences, and restorative justice are not dealt with in this article.

SUMMARY OF THE MULTI-SITE...
continued...

METHODOLOGY OF THE MULTI-SITE SURVEY

The Multi-Site Survey was conducted in sixteen locations within the ten provinces of Canada. At least three sites were chosen within each of the five regions (Atlantic, Quebec, Ontario, Prairie and Western). The sites selected comprise a variety of rural, urban, and northern locations; cities of several sizes; and, populations with diverse cultural and linguistic backgrounds. A subcommittee of the Federal Provincial Territorial Working Group on Victims of Crime recommended some of the sites and guided this research.

Victims of crime and all major groups of criminal justice professionals were surveyed in the sixteen selected sites in 2002. Criminal justice respondents included victim services providers (VS) and victim advocacy groups, judges, Crown attorneys, defence counsel, police, and parole, probation, and corrections personnel. Both quantitative and qualitative data were gathered. Interviews were conducted with 112 victims of crime and 214 criminal justice professionals. In addition, self-administered questionnaires were completed by 1,664 criminal justice professionals.[10] The use of questionnaires and in-depth interviews yielded a wide range of useful findings, which are briefly summarized below.[11]

"This summary is structured to highlight the key findings according to legislative reforms and initiatives that were the primary emphasis of the Multi-Site Survey."

SUMMARY OF FINDINGS

This summary is structured to highlight the key findings according to legislative reforms and initiatives that were the primary emphasis of the Multi-Site Survey. It describes the main strengths and challenges identified related to these provisions, in addition to the main recommendations made by survey respondents.

Roles of Victims of Crime and Responsibilities of Criminal Justice Professionals to Victims in Criminal Justice Proceedings

Findings from the Multi-Site Survey revealed that there was general agreement among respondents who were criminal justice professionals that:

> [V]ictims of crime have legitimate roles to play in the criminal justice process. Although victim services providers and advocacy organizations were the most supportive of an active role for victims, other criminal justice professionals also believe that victims are entitled to be consulted, particularly before irrevocable steps are taken.

"[V]ictims of crime have legitimate roles to play in the criminal justice process."

10 Selection bias may have been introduced, as the primary contacts in some selected sites assisted in identifying possible interviewees and questionnaire respondents and victim services personnel assisted in contacting and acquiring victims' consent to take part in this research.

11 In addition to the overall report, a user-friendly summary report was created for each respondent group. These reports will be available on the Web site of the Department of Justice Canada in the future.

SUMMARY OF THE MULTI-SITE...
continued...

Judges, Crown attorneys, and police, for example, reported that their primary responsibilities to victims of crime included keeping victims abreast of the status of their court case, providing opportunities for victims to voice their views, and consulting with victims at several points during legal processes. Nevertheless, criminal justice professionals also cautioned that victims' roles should be circumscribed. In their view, victims should not be the final decision-makers, as they may not comprehend all of the complexities of the legal system.

Information and Services Provided to Victims of Crime

Information and service provision are key aspects in responding to victims' needs and enhancing their experiences in criminal justice processes. Seventy-five of the 112 victims in the survey (67%) had been victimized by serious, violent crimes. In interviews, almost all victims reported that they had been referred to victim services and had received service. Victim respondents identified counselling, emotional support, and information provision as among the most helpful services. More than 75% of victim services reported responding to these needs by providing crisis support, information about court processes, and assistance in preparing victims for court. However, only half of victim services offered counselling.

"Victim respondents identified counselling, emotional support, and information provision as among the most helpful services."

Of the one third of victims surveyed whose cases were tried in court, almost all victims who testified had help in preparing for their court appearance. Usually, this assistance was provided by victim services. Slightly more than half of victims who testified felt prepared, most often due to the support they had received before and during testimony. Those victims who believed they were unprepared felt afraid, threatened, revictimized, or lacking in preparation time. Victims suggested more thorough explanations of court processes and enhanced, expanded protections for victims to improve their experience in testifying. Few victims surveyed were eligible for testimonial aids or protections to facilitate testimony and few victims received information about these provisions.

"...victims who reported being dissatisfied commonly focused on the lack of sufficient, accurate, consistent, or clear information."

Victim respondents most wanted information about the status of the investigation and about the criminal justice system. The vast majority of victims received this information. Sixty percent of victims surveyed were satisfied with the amount, type, and timeliness of information they received. Those victims who reported being dissatisfied commonly focused on the lack of sufficient, accurate, consistent, or clear information. Most Crown attorneys, police, victim services, and advocacy groups believed that victims were given sufficient information about their cases. However, interviews with these groups revealed that heavy case loads cause difficulties in providing information to victims. Privacy issues and protections against information-sharing among agencies were also mentioned as obstacles to victims' access to information.

SUMMARY OF THE MULTI-SITE... continued...

Additional impediments to information and service provision for victims of crime were pointed out and solutions explained. In interviews, some victims and victim services stressed that victims are often overwhelmed or traumatized by the crime. They emphasized that victims are usually unaware of available services. These groups recommended solutions such as routine contact and follow-up by police and Crown attorneys to keep victims informed; early contact with victims after the crime; more detailed oral and printed information; and the designation of a single source or agency responsible for information provision to victims. Similarly, cooperation and clear division of responsibilities between agencies were suggested by Crown attorneys, police, and victim services providers interviewed. Language and cultural barriers were identified as the greatest challenges by police, victim services, and victim advocacy groups. As responses to victimization can differ according to culture, cultural sensitivity training was suggested for victim services personnel. Financial issues (e.g., transportation and child care costs), lack of access to services in rural areas, and physical barriers for persons with disabilities were also among the obstacles mentioned by survey respondents.

Key Provisions Instituted in 1999 by Bill C-79, Amending the *Criminal Code*

"Almost two-thirds of victims involved in cases where charges were laid had prepared a VIS."

a) Victims are given the right to read their victim impact statement at the time of sentencing

This legislative reform was adopted to make the criminal justice system more responsive to victims of crime. It gave victims an opportunity to inform the court of the loss suffered or the harm done by the crime through a victim impact statement at the time of sentencing of the offender and required that courts acknowledge the harm suffered by victims of crime.

Multi-Site Survey findings reveal that there is widespread application of this provision. Almost 80% of victims interviewed had received information about providing a VIS, usually from victim services. Almost two-thirds of victims involved in cases where charges were laid had prepared a VIS. Most victims chose to submit a written statement (rather than read it in court) and most victims had received some assistance in preparing their VIS from victim services providers.

However, more than half of defence counsel and Crown attorneys reported difficulties in using VIS (compared to less than one-third of victim services providers and police). About one-fifth of Crown attorneys, victim services, and police who were respondents agreed that irrelevant information in VIS was a problem. A few victims reported not being allowed to read their statement in court due to its inappropriate content, and several were frustrated by the obstacles they faced in submitting a VIS. About one-third (33%) of victim services providers stated that a lack of information and guidance to victims was the greatest impediment to preparing a VIS. Another third attributed victims'

SUMMARY OF THE MULTI-SITE...
continued...

problems in VIS preparation to literacy or language barriers. Some Crown attorneys interviewed believed that a VIS can undermine their case and strengthen the defence.

Nevertheless, four-fifths of victims who prepared an impact statement were pleased that they had done so. Approximately half of victims surveyed believed that the VIS gave them a voice. One-fifth of victims valued the opportunity to have the judge and accused become aware of the impact of the crime. In interviews, victim services providers agreed.

One fifth of victims reported submitting their VIS early in the justice process, while just over half submitted it prior to the guilty plea or conviction. Timing of submission of VIS was controversial. On the one hand, 44% of Crown attorneys remarked that if the VIS is submitted too early, the victim is more vulnerable to being cross-examined by defence on the VIS. In their view, the VIS should be submitted only after guilt has been established. On the other hand, approximately half of the Crown attorneys and several victim services respondents believed early submission of VIS is preferable, as it may assist Crown to negotiate and judges to determine appropriate sentences.

b) The judge is required to inquire before sentencing whether the victim has been informed of the opportunity to give a victim impact statement

"Several victims reported not being informed of the possibility of reading their VIS, what to include in the statement, or where to submit it."

Although almost 80% of victims received information about providing a VIS, some problems were encountered. One-quarter of the victims whose offender had pled or had been found guilty reported that although they had not submitted a VIS, the judge had not asked them whether they had been given the opportunity to prepare a statement. Several victims reported not being informed of the possibility of reading their VIS, what to include in the statement, or where to submit it. These omissions may impact the outcome of the case, as about 80% of judges reported using the VIS in determining the severity of the crime and the sentence. Nevertheless, in interviews, judges explained that while the VIS provides information, its use is carefully limited, as judges must render decisions consistent with the *Criminal Code*. In interviews Crown attorneys agreed.

Victims expressed a variety of views regarding whether judges considered their VIS. Some of the Crown attorneys, defence counsel, and victims services providers interviewed also questioned whether responsibilities of criminal justice professionals were being fulfilled in relation to the VIS. There was uncertainty about whether police routinely inform victims about the VIS, whether Crown attorneys conscientiously pursue victims for their statements and submit those that are received. These questions were addressed in the survey findings. About 80% of the Crown attorneys stated they remind judges of VIS that are submitted. However, only about 25% of the Crown attorneys surveyed reported that they usually contact and remind victims who have not submitted a VIS. Although victim services providers are generally of the view that victims are informed about the VIS, 20% believe that they are

SUMMARY OF THE MULTI-SITE... continued...

not. In interviews, several important suggestions were offered, including: a mandatory or routine VIS notification process; the provision of VIS information to victims by all criminal justice professionals and victim services agencies during different stages of the criminal justice process; follow-up work conducted with victims, and public education campaigns. These suggestions sought to achieve optimal awareness and use of victim impact statements at the sentencing stage.

c) *All offenders are required to pay a victim surcharge of 15% where a fine is imposed or a fixed amount of $50 or $100 for summary or indictable offences respectively*

"Bill C-79 requires the offender to pay the victim surcharge."

Bill C-79 requires the offender to pay the victim surcharge. It applies automatically, unless the offender can establish that its imposition would cause undue hardship. This surcharge provides increased revenue for provinces and territories for the purpose of enhancing and increasing victim services. These amounts are not given directly to victims.

Multi-Site Survey findings identified substantial difficulties relating to the victim surcharge. The most important obstacles were in collecting the victim surcharge from offenders. Slightly less than 60% of judges surveyed reported that they generally apply the victim surcharge. Approximately one-third of judges who do not usually apply the surcharge stated that the reason was that the offender was not able to pay. There was disagreement among other criminal justice respondent groups about whether waiver of the surcharge is used by judges in appropriate cases. The vast majority of defence counsel (90%) believe that the waiver is used correctly. On the other hand, two-thirds of Crown attorneys and victim service providers do not agree. Those respondents who see the waiver as being applied too infrequently believe it is due to such aspects as judicial attitudes or failure to include the surcharge as a part of judicial processes. Very few victims (3) interviewed reported the offender in their case had been ordered to pay the victim surcharge. Moreover, few victims were aware of this surcharge and its application was not made public by all courts.

"Slightly less than 60% of judges surveyed reported that they generally apply the victim surcharge."

d) *The application of publication bans is clarified and discretionary orders, in appropriate circumstances, are provided on information that could disclose the identity of victims as witnesses*

Only about one quarter of the judiciary participating in the Multi-Site Survey reported having granted a publication ban in cases involving non-sexual offences or excluding the public from attending a court case. In relation to publication bans, there was agreement among judges, Crown attorneys and defence counsel regarding the importance of preserving the principle of an open court, as it is vital to public confidence in criminal justice processes. Survey respondents reported publication bans are usually confined to sexual offences and applied to other cases only in exceptional circumstances.

"...publication bans are usually confined to sexual offences and applied to other cases only in exceptional circumstances."

SUMMARY OF THE MULTI-SITE...
continued...

e) Victims and witnesses under 18 years of age are protected from cross-examination by self-represented accused in cases involving sexual or personal violence offences

The main objective of this provision is to protect extremely vulnerable victims from revictimization by the accused. Cross-examination of a child victim and witnesses under 18 years of age is restricted in cases involving sexual or personal violence offences under Section 486 (2.3) of the *Criminal Code*. Only 20% of the judges and 25% of the Crown attorneys who were respondents reported being involved in a case in which this section was applied. A substantial majority of Crown attorneys among this group and more than 80% of judges reported complying with this provision and appointing counsel for the cross-examination in these cases. Yet, there were exceptions, as several judges reported having allowed the accused to cross-examine a young victim after the adoption of s.486 (2.3). Moreover, a few victim services providers interviewed mentioned that some victims do not prepare a VIS because they fear being cross-examined or questioned about its content.

"Cross-examination of a child victim and witnesses under 18 years of age is restricted in cases involving sexual or personal violence offences under Section 486 (2.3) of the *Criminal Code*."

Expansion of this provision to cover a wider range of cases was supported by three-quarters of victim services and advocacy groups, half of Crown attorneys, and one-quarter of defence counsel surveyed. Adult victims and witnesses in sexual and personal violence cases were seen as the most appropriate additional groups to receive protection against cross-examination by a self-represented accused.

f) Any victim or witness with a mental or physical disability may be accompanied by a support person while giving evidence

"Among all Multi-Site Survey respondent groups, there was broad agreement with the use of support persons to accompany victims or witnesses who are young or who have a mental or physical disability."

Protection for particularly vulnerable victims was the primary objective of this provision. Among all Multi-Site Survey respondent groups, there was broad agreement with the use of support persons to accompany victims or witnesses who are young or who have a mental or physical disability. This was also reported as the most widely adopted provision to facilitate testimony by victims surveyed. About 75% of the Crown attorneys surveyed reported generally requesting this support, and more than 80% of the judiciary reported usually granting these requests.

g) The safety of victims and witnesses must be taken into consideration in judicial decisions during interim release hearings (bail determinations)

"Victim safety is an important consideration in bail determinations..."

There was also broad awareness and use of this provision by criminal justice professionals surveyed. Victim safety is an important consideration in bail determinations according to judges, Crown attorneys, defence counsel, and police surveyed. The most common method police reported using to ensure that the safety of victims was considered during bail hearings was a written submission to Crown attorneys which included recommended conditions for the offender's interim release. A substantial majority (approximately 70%) of victims interviewed reported having voiced their safety concerns, generally to the police.

SUMMARY OF THE MULTI-SITE...
continued...

However, Multi-Site Survey findings reveal that those victims who had not expressed their safety concerns most often had not been asked about safety issues by criminal justice professionals. Moreover, victims are seldom called by the Crown as witnesses in bail hearings.

Nevertheless, almost all Crown attorneys reported requesting conditions on the offender's release that responded to the victim's safety concerns, which was also consistent with the experiences of defence counsel. Moreover, judges generally imposed conditions designed to protect victims. A substantial majority of judges stated they inquire about victim safety concerns when the Crown has not raised these issues. In interviews, judges explained that this is rarely required, as Crown attorneys are conscientious in protecting victims' safety. In contrast, only one-third of victim services and advocacy groups and two-fifths of victims involved in cases where the accused was charged agree that victim safety concerns are considered in bail decisions. Those victims holding this view most often saw problems as resulting from insufficient conditions or offenders failing to respect the conditions imposed. Moreover, while 80% of victims reported being informed if conditions were placed on the offender in cases where the offender received probation, only half of victims were informed of the conditions of release when the offender was released pending trial.

Multi-Site Survey findings provide useful information about the application of the provisions of Bill C-79 amending the *Criminal Code*. The following section reveals insights into awareness and use of legislative reforms relating to the post-sentencing stage of criminal justice processes.

"...pre- and post-sentencing VIS are considered by parole boards... [and] used in assessing risk, specifying conditions, and gauging the progress of offenders."

Amendments to the *Corrections and Conditional Release Act* Made It Possible for Victims of Crime to Provide a Victim Impact Statement at Parole Board Hearings

Multi-Site Survey findings show that application of this legislative reform remains a challenge. Approximately 75% of parole and corrections respondents perceive obstacles to victim participation in the post-sentencing stages. According to National Parole Board personnel surveyed, funding for victims wanting to attend hearings, awareness of victims about available services, and possibilities of participating are lacking. Provincial Parole Board personnel reported victim awareness as the greatest barrier to their participation at parole.

Nevertheless, victim impact statements were seen as useful. Parole respondents to the survey stated that both pre- and post-sentencing VIS are considered by parole boards. National Parole Board personnel reported that this information is used in assessing risk, specifying conditions, and gauging the progress of offenders. Provincial personnel identified VIS as assisting the Parole Board in making decisions. Of the 112 victims interviewed in the survey, one victim reported submitting a VIS to a parole board. Moreover, only a few parole and corrections respondents surveyed reported that victims participate in parole hearings.

SUMMARY OF THE MULTI-SITE...
continued...

In particular, survey findings show that there are significant challenges to adequate information and service provision to victims during the post-sentencing phase. According to the survey:

> **Just under half of victims involved in a case where the offender was eligible for parole received information about the offenders' eligibility. Of those involved in a case where a parole hearing had been set or had occurred, one third were informed of the dates, and in instances where parole had been granted, about one-third were informed of release dates, conditions imposed on release dates, conditions imposed on release, and the destination of the offender on release.**

Parole and corrections personnel pointed out that victims do not receive information at the post-sentencing stage largely due to the requirement for victims to register with the National Parole Board or Correctional Service Canada prior to receiving information. In interviews, few victims reported being aware of this requirement. The post-sentencing stage appears to be one of the key phases of criminal justice proceedings requiring further improvements in the future.

CONCLUSIONS

The Multi-Site Survey of Victims of Crime and Criminal Justice Professionals Across Canada provides important insights into the awareness and implementation of several initiatives and legislative reforms intended to benefit victims of crime. The survey focuses on the roles of victims of crime and the responsibilities of criminal justice professionals to victims in criminal justice proceedings; information and services provided to victims of crime; and awareness and use of Bill C-79 and specific amendments to the Corrections and Conditional Release Act. Survey findings from the responses of victims of crime and all major groups of criminal justice professionals identify successes, obstacles, and suggestions for improvements relating to these reforms.

"The comprehensive Multi-Site Survey is an exceptional source of useful information for members of the public interested in victims' issues, victims of crime, and criminal justice professionals."

Information from the Multi-Site Survey advances understandings of how better to protect victims' safety, security, and privacy. It also illuminates ways to enhance victim participation and experiences in the justice system, emphasizing greater access to justice, fair treatment, and assistance for victims of crime in criminal justice processes.

The comprehensive Multi-Site Survey is an exceptional source of useful information for members of the public interested in victims' issues, victims of crime, and criminal justice professionals. Ultimately, findings from this survey will advance the objectives of the Victims of Crime Initiative by informing future policies and legislative reforms intended to improve responses to the needs of victims of crime and to increase victims' confidence in the criminal justice system.

RESEARCH IN BRIEF

Women as Holders of University Degrees in Law and Jurisprudence

Dr. Fernando Mata,
Senior Research Officer,
Research and Statistics Division

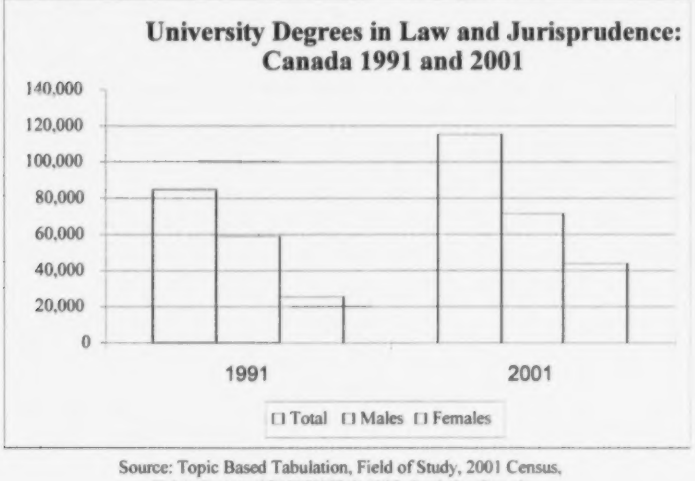
INTRODUCTION

Women are becoming more interested in pursuing careers in the area of law and jurisprudence in Canada. They are overcoming academic barriers that impeded their access to the legal profession in the past and are slowly changing the demographic landscape of the population holding these types of university degrees. Topic-based tabulations drawn from the 1991 and 2001 Population Census were examined to track the progress made by women in terms of the possession of university degrees in the fields of law and jurisprudence. The population examined consisted of individuals aged 20 years and older reporting the possession of university degrees in different fields of study.

THE OVERALL PICTURE

Between 1991 and 2001, the number of individuals aged 20 years old and over holding university degrees in law and jurisprudence increased by 36% (from 84,295 to 114,895). Between 1991 and 2001, about 30,600 individuals entered the pool of law and jurisprudence graduates-18,480 women and 12,120 men. In 1991, men represented 70% of the pool of university graduates holding law or jurisprudence degrees, while women represented only 30%. Ten years later, 62% of degree holders were male

"The number of female degree holders increased from 25,340 in 1991 to 43,820 in 2001..."



Source: Topic Based Tabulation, Field of Study, 2001 Census, Table Cat No. 970018XCBO 1002, Statistics Canada

WOMEN AS HOLDERS...
continued...

and 38% were female. The number of female degree holders increased from 25,340 in 1991 to 43,820 in 2001, representing a 73% growth between census periods. The corresponding number of male degree holders increased from 58,995 in 1991 to 71,075 in 2001, representing a 20% growth over census periods.

BREAKING THE GENDER DOMINATION IN ALL FIELDS OF STUDY

"The greater presence of women as university graduates was felt not only in terms of law and jurisprudence but also in other fields of study traditionally dominated by men..."

The greater presence of women as university graduates was felt not only in terms of law and jurisprudence but also in other fields of study traditionally dominated by men (see Table 1). In Canada, these fields have been concentrated in areas such as mathematics, computer sciences, physical sciences and engineering. In 1991, women holding degrees in the mathematics, computer and physical sciences group represented 28% of graduates, and women holding degrees in the engineering and applied sciences group represented 15% of graduates. In 2001, these percentages had risen to 32% and 23% respectively.

Table 1
Population with University Certificates by Gender and Field of Study

Fields of Study	Females (%)	Males (%)	Total (%)	Number of Degrees
1991 CENSUS				
Educational, recreational and counselling	68%	32%	100%	567,245
Health professions and related technologies	64%	36%	100%	294,095
Fine and applied arts	64%	36%	100%	77,085
Humanities and related fields	55%	45%	100%	339,570
Other social sciences	51%	49%	100%	390,060
Agricultural, biological, nutritional, and food sciences	48%	52%	100%	139,210
Commerce, management and business administration	35%	65%	100%	474,625
Law and Jurisprudence	***30%***	***70%***	***100%***	**84,295**
Mathematics, computer and physical sciences	28%	72%	100%	199,255
Applied science technologies and trades	15%	85%	100%	5,260
Engineering and applied sciences	8%	92%	100%	281,770
All fields	47%	53%	100%	2,852,470
2001 CENSUS				
Educational, recreational and counselling	69%	31%	100%	760,310
Health professions and related technologies	67%	33%	100%	416,085
Fine and applied arts	65%	35%	100%	117,005
Humanities and related fields	59%	41%	100%	485,310
Other social sciences	57%	43%	100%	613,895
Agricultural, biological, nutritional, and food sciences	52%	48%	100%	203,400
Commerce, management and business administration	43%	57%	100%	746,715
Law and Jurisprudence	***38%***	**62%**	***100%***	**114,895**
Mathematics, computer and physical sciences	32%	68%	100%	336,935
Applied science technologies and trades	23%	77%	100%	12,245
Engineering and applied sciences	15%	85%	100%	464,550
All fields	51%	49%	100%	4,271,345

1. Other Social Sciences includes all other non Law or Jurispruden ce social science fields
2. Source: Table Cat. No. 97F0018XCB01002 -Major Fields of Study

WOMEN AS HOLDERS...
continued...

"Census data suggests that, following a general trend, women are choosing law and jurisprudence more and more often as a career in Canada."

CONCLUSION

Census data suggests that, following a general trend, women are choosing law and jurisprudence more and more often as a career in Canada. This is reflected in a greater number of women in the pool of university graduates. In 2001, two in five individuals with law and jurisprudence university degrees were women. With more women interested in the study of law, it is anticipated that female graduates may significantly contribute to the growth of the field in the next years and affect approaches to the practice of law in an innovative way.

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A Statistical Profile on Vulnerable Canadians

Jacinthe Loubier,
Statistical Officer,
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INTRODUCTION

Canadians have to face many barriers in their daily lives. Economic and social barriers can have an impact on where they live and what type of job they have. Furthermore, their cultural background, level of education, and standard of living can act as barriers and make them more susceptible to discrimination and criminal victimization. The groups most affected by these barriers are considered vulnerable. These vulnerable groups include women (especially those who are widowed, divorced, separated, or are lone parents), children and youth, persons with low income, persons with disabilities, visible minorities, and Aboriginal people. The following statistical profile provides demographic and victimization statistics on vulnerable groups in Canada.

"...cultural background, level of education, and standard of living can act as barriers and make [Canadians] more susceptible to discrimination and criminal victimization."

DEMOGRAPHIC STATISTICS

Women

"...vulnerable groups include women (especially those who are widowed, divorced, separated, or are lone parents), children and youth, persons with low income, persons with disabilities, visible minorities, and Aboriginal people."

- In 2001, half (50%) of the Canadian population was female-12.2 million female adults and 3.5 million female children and youth.
- Forty-three per cent (43%) of the women were single, 39% were legally married, 8% were widowed, 7% were divorced, and 4% were separated.
- Women were four times more likely than men to be lone parents (81% vs. 19%).

Children and Youth

- In 2001, children (aged 0 to 11) represented 15% of the total population, while youth (aged 12 to 17) represented 8% of the total population.
- Males slightly outnumbered females in these age groups, accounting for 51% of the population under 18 years of age.
- The vast majority (84%) of all children and youth in Canada lived in the most populous provinces: Ontario (39%), Quebec (22%), British Columbia (13%), and Alberta (11%).

A STATISTICAL PROFILE... continued...

- In the three territories, children and youth accounted for a much larger share of the population than in the provinces. In 2001, one third (33%) of all residents of the three territories were under the age of 18, as opposed to 23% in the provinces. This figure was highest in Nunavut, where 42% of the population was under the age of 18, compared to 31% in the Northwest Territories and 26% in Yukon.

Persons with Low Income

- In 2004, nearly a quarter (24%) of the population held jobs that paid less than $10 per hour[12] (in 2001 dollars), while one in ten Canadians (10%) held jobs paying $30 or more per hour.
- In 2000, women were twice as likely to have low income jobs as men (22% vs. 12%). However, the difference is decreasing, since in 1981 they were three times as likely as men to have low income jobs (26% vs. 9%).
- In 2000, the percentage of persons earning a low wage was high among the less educated[13] (47%), young workers[14] (16%), and recent immigrants (27%).

"In 2000, women were twice as likely to have low income jobs as men..."

Persons with Disabilities

- In 2001, 12.4% of all Canadians had one or more disabilities.
- The rate of disability amongst seniors (41%) was four times higher than that of the working age population (10%) and ten times higher than that of the population of children (3%).
- Disability rates for all age groups were the highest in the province of Nova Scotia and the lowest in the province of Quebec (seniors: 49% vs. 28%; working age: 14% vs. 7%; children: 4% vs. 2%).
- At the national and provincial levels, mobility, agility, and pain-related disabilities were the most common types of disability.

12 Definition of low pay and poverty from Morissette and Picot (2005).
13 Less educated is defined as high school or less than high school.
14 Young workers are defined as individuals between 25 and 34 years of age.

A STATISTICAL PROFILE... continued...

Visible Minorities

"The visible minority population is steadily growing and has more than doubled in the last 15 years..."

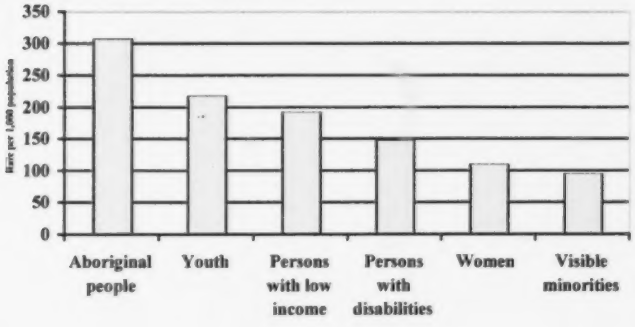
- The visible minority population is steadily growing and has more than doubled in the last 15 years, increasing from 1.6 million in 1986 to 4 million in 2001. This represents an increase from 6% of the total population in 1986 to 12% of the total population in 2001.
- The vast majority of visible minorities live in highly populated urban areas, such as Toronto (43% of the city's population) and Vancouver (18% of the city's population).

Aboriginal People

- According to the 2001 census, about 976,000 individuals identified themselves as Aboriginals, including North American Indian (608,850), Métis (292,305), and Inuit (45,070). They represented about 3% of the total Canadian population.
- The majority of Aboriginal people live off-reserve and in urban areas. Even though the highest number of Aboriginal people were found in Ontario (188,315), significant numbers lived in western cities like Winnipeg (55,755), Edmonton (40,930), and Vancouver (36,860).

VICTIMIZATION STATISTICS

Reported Victims of Violent Crime



1. Violent crime includes sexual assault, assault and robbery .
2. Source: Canadian Centre for Justice Statistics – Profile Series June 2001 and Statistics Canada General Social Survey 1999 .

A STATISTICAL PROFILE...
continued...

- Just over one-third (35%) of Aboriginal people reported being the victim of a crime in the previous year. Aboriginal people are also at a much higher risk than non-Aboriginal people for violent victimizations and theft of personal property.
- Approximately 40% of youth reported being the victim of a crime in the previous year; female youth were at a slightly higher risk of violent victimization compared to male youth.
- Canadians with a household income of less than $15,000 (25%) were less likely to be victimized than those with an income of $60,000 or more (31%). Those with higher incomes also had a higher rate of personal property theft (7.5%) compared to low income Canadians (5.7%). However, the risk of violent victimization was greater for low income households (19.2%) compared to high income households (10.5%).
- Approximately 24% of disabled persons were victimized at least once in the preceding year. They reported lower rates of personal property theft (7.5%) but higher rates of violent victimization (14.7%).
- Women and men had similar overall risks of victimization; however, women were more likely to be victims of sexual assault (3.3% vs. 0.8%), while men were more likely to be victims of robbery (1.2% vs. 0.7%).
- In 2003, 84% of victims of abduction, 47% of victims of other sexual offences, and 24% of victims of sexual assault were children under the age of 12. Among males victims of sexual assault, half (51%) were children, while among females victims of sexual assault, one-fifth (20%) were children.

"Approximately 40% of youth reported being the victim of a crime in the previous year..."

REFERENCES

Canadian Centre for Justice Statistics. 2001. *Canadian Centre for Justice Statistics Profile Series: Aboriginal peoples in Canada*. 85 F0033MIE. Ottawa: Statistics Canada.

Canadian Centre for Justice Statistics. 2001. *Canadian Centre for Justice Statistics Profile Series: Canadian with disabilities*. 85-F0033MIE. Ottawa: Statistics Canada.

Canadian Centre for Justice Statistics. 2001. *Canadian Centre for Justice Statistics Profile Series: Canadian with low incomes*. 85-F0033MIE. Ottawa: Statistics Canada.

Canadian Centre for Justice Statistics. 2001. *Canadian Centre for Justice Statistics Profile Series: Children and youth in Canada*. 85-F0033MIE. Ottawa: Statistics Canada.

A STATISTICAL PROFILE...
continued...

Canadian Centre for Justice Statistics. 2001. *Canadian Centre for Justice Statistics Profile Series: Women in Canada*. 85-F0033MIE. Ottawa: Statistics Canada.

Canadian Centre for Justice Statistics. 2001. *Canadian Centre for Justice Statistics Profile Series: Visible minorities in Canada*. 85-F0033MIE. Ottawa: Statistics Canada.

Canadian Centre for Justice Statistics. 2004. *Canadian Crime Statistics 2003*. 85-205. Ottawa: Statistics Canada.

Morissette R., and G. Picot. 2005. *Low-paid work and economically vulnerable families over the last two decades*. Ottawa: Statistics Canada.

Social Development Canada. 2001. *Participation and Activity Limitation Survey*. Ottawa: Social Development Canada.

Statistics Canada. n. d. Census 2001 Database. Ottawa: Statistics Canada.

Statistics Canada. 2001. *A profile of criminal victimization: Results of the 1999 General Social Survey*. 85-553-XIE. Ottawa: Statistics Canada.

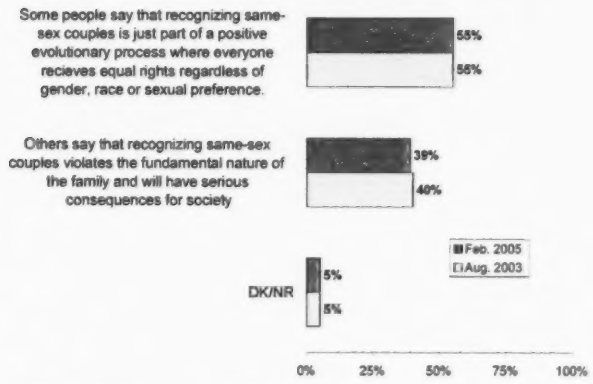
Rights vs. Marriage: The Same-Sex Marriage Debate Continues

Allison Millar,
Statistical Officer,
Research and Statistics Division

According to a February 2005 EKOS poll, more than half (55%) of Canadians believe that recognizing same-sex couples is part of the positive evolutionary process where everyone receives equal rights regardless of gender, race, or sexual preference. In contrast, 39% of Canadians feel that recognizing same-sex couples violates the fundamental nature of the family and will have serious consequences for society. The numbers from both sides of the debate are unchanged since 2003.

"...more than half (55%) of Canadians believe that recognizing same-sex couples is part of the positive evolutionary process where everyone receives equal rights..."

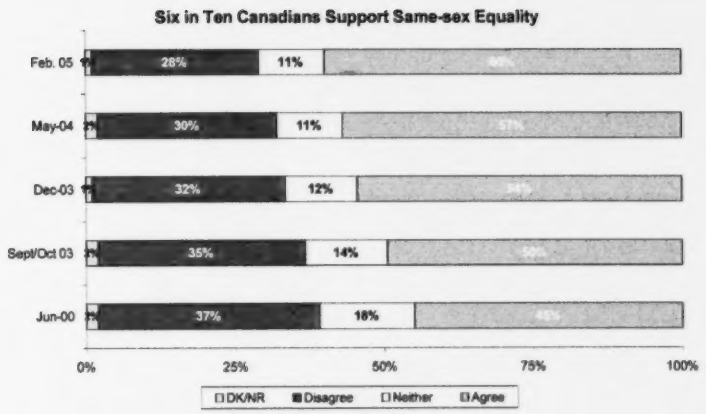
Majority (55%) View Same-sex Couple Recognition as Positive



Question: Which of the following statements comes closer to your point of view?
Source: EKOS Research Associates, Media Release, February 12, 2005.

When Canadians were asked if same-sex couples should have the same rights as heterosexual couples, a majority (60%) feel they should have the same rights. Far fewer (28%) Canadians disagree with this statement. Over the last five years, support for same-sex equality has gradually increased by fifteen percent (15%), while opposition has declined by nearly ten percent (10%).

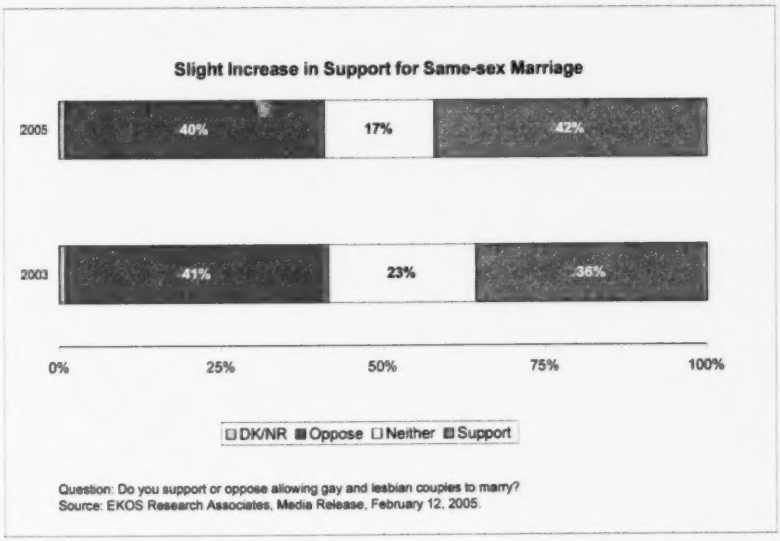
RIGHTS VS. MARRIAGE...
continued...



Question: Same-sex couples should have the same rights as heterosexual couples.
Source: EKOS Research Associates, Media Release, February 12, 2005.

While a majority (60%) believe in same-sex equality, when Canadians were directly asked whether they support same-sex marriage, significantly fewer Canadians (42%) indicate support. However, support for same-sex marriage has increased by six percentage points since 2003. Overall, Canadians appear to have firm opinions on the issue of same-sex marriage, as there are notably fewer (17%) in 2005 that are undecided about the issue. The numbers indicate that those who were undecided (23%) in 2003 have now shifted in favour of same-sex marriage.

"While a majority (60%) believe in same-sex equality, when Canadians were directly asked whether they support same-sex marriage, significantly fewer Canadians (42%) indicate support."



Question: Do you support or oppose allowing gay and lesbian couples to marry?
Source: EKOS Research Associates, Media Release, February 12, 2005.

RIGHTS VS. MARRIAGE... continued...

Same-sex Rights: An International Perspective

According to an October 2004 International Gallup Poll, just over half of Canadians (51%) and Britons (52%) support the view that same-sex marriages should be recognized by the law as valid with the same rights as traditional marriages, in comparison to 35% of Americans. In all three countries, respondents are more likely to support civil unions for same-sex couples. In Canada and Britain, more than 60% favour civil unions between same-sex couples with close to a third opposing them. While Americans are more supportive of civil unions, they are equally split on the issue. Nearly half (49%) favour a law that would allow same-sex couples to legally form civil unions, while an almost equal percentage (48%) oppose the idea.

"...Canadians have opposing views regarding the message that supporting same-sex marriage in Canada sends to the international community."

Results from the February 2005 EKOS poll indicate that Canadians have opposing views regarding the message that supporting same-sex marriage in Canada sends to the international community. When asked which statement is closest to their point of view, 50% of Canadians think that endorsing same-sex marriage rights would be a positive signal to the world about Canada's values and beliefs, while 42% think that endorsing same-sex rights would be a negative signal to the world. Eight percent (8%) of Canadians are undecided about the signal sent to the world by endorsing same-sex marriage rights.

Overall, although the trend is towards greater support for same-sex marriage and equality, the percentage that opposes same-sex marriage remains significant. ▲

Current and Upcoming Research from the Research and Statistics Division

Program of Métis Research

Contact: Austin Lawrence, A/Senior Research Officer

With the Supreme Court of Canada decision in *R. v. Powley*, Métis were recognized as having an Aboriginal right to hunt for food as recognized under section 35 of the *Constitution Act, 1982*. In consequence, the Department of Justice Canada developed a research program consisting of 15 ethnohistorical research projects designed to explore the history related to possible Métis ethnogenesis and the imposition of 'effective European control' in selected sites across Canada.

Through the use of archival and published documents, these reports explore selected geographic areas from coast-to-coast. In each region, the reports examine the social history and genealogical background of the European-Indian ancestry population, the distinctive cultural and religious practices of the European-Indian ancestry group, and some possible indicators of 'effective European control.' A detailed, chronological, historical narrative is presented, along with a discussion surrounding certain concepts utilized in Powley.

In an upcoming issue of *JustResearch*, this program of research will be explained in greater depth, some highlights from several projects will be presented, as well as a discussion of certain methodological and conceptual issues faced in the course of the research.

Victims of Trafficking in Persons: A Literature Review

Contact: Jeff Latimer, Principal Statistician

Trafficking in persons, also known as human trafficking, is a serious crime that involves:

- the movement of people across or within borders;
- threats or use of force, coercion, and deception; and
- exploitation, whether forced labour, forced prostitution, or other forms of servitude.

VICTIMS OF TRAFFICKING...
continued...

Human trafficking is not migrant smuggling. It involves forcing the involuntary servitude of another for profit and trade and has been described as a modern form of slavery.

The objective of this research project was to undertake a comprehensive review of existing literature to identify the needs of victims of human trafficking at the various stages of their experience. In the context of this study, the 'needs' of human trafficking victims were the requirements for support - be they related to housing, the judicial process, legal needs, immigration status, administrative, medical or psychological needs, etc. - that, if met, might alleviate some of the harm experienced and might assist in the overall reduction in the incidence of this type of crime. The 'stages of experience' refers to recruitment, transit, destination, and recovery. A final report will be available from the Research and Statistics Division in the fall of 2005.

Victims of Trafficking in Persons in Canada: Telephone Interviews

Contact: Dr. Kuan Li, Research Analyst.

This research project seeks to gain a deeper understanding of the characteristics and the needs of victims of trafficking. It focuses on the following issues: how "potential" victims of trafficking are recruited and what makes them particularly vulnerable; the characteristics of victims of trafficking, including their age, ethnic background, sex, and in particular, their Aboriginal status; the living and working conditions of trafficked persons; movement of trafficked persons such as their countries of origin, transit countries and countries of destination, and once in Canada, points of entry and movements within Canada; the needs of victims of trafficking and how they are being, or not being, met; and barriers to providing services to victims of trafficking.

Telephone interviews with frontline workers were conducted in four sites: Vancouver, Toronto, Montreal, and Winnipeg. The frontline workers have first hand experiences of working with victims of trafficking and are from a broad range of organizations including victim services, non-governmental organizations providing settlement, community and health services, religious organizations, and Aboriginal and ethnic organizations. A report on this project is being finalized.

Victims of Mentally Disordered Accused

Contact: Jeff Latimer,
Principal Statistician

Over the past two decades, victims have become increasingly prominent in the criminal justice system in Canada and in other similar common-law countries. This is a result of advocacy movements and changes in legislation, policy, and practices governing their role at different stages of the system. Services for victims have increased in all provinces, and victims have specific procedural rights in criminal law, many introduced by Bill C-79 in 1999. The federal government also introduced the Victims of Crime Initiative at that time and through the Policy Centre for Victim Issues, Department of Justice Canada and provincial/territorial partners, there has been ongoing research, policy and legislative developments on victim issues.

Where an accused is found Unfit to Stand Trial (UST) or Not Criminally Responsible on Account of Mental Disorder (NCRMD), he or she falls under Part XX.1 of the *Criminal Code*. This is a comprehensive scheme that gives legal authority to provincial and territorial review boards to conduct annual reviews and issue dispositions as to the ongoing treatment, conditions, and, ultimately, discharge of the accused/offender.

Sections 672.5(14-16) of the *Criminal Code* relate to the admissibility of victim impact statements at Review Board hearings. Subsection 14 provides that a victim may submit a written prepared statement to the Board. Subsection 15 directs a copy of the statement to be given to the accused and the prosecutor as soon as possible after the verdict of NCRMD is rendered.

Amendments have recently been tabled that would permit a victim to read his or her victim impact statement to the Review Board, unless deemed inappropriate. Following the verdict, the court or Review Board would also be required to advise a victim of the right to submit a victim impact statement at the initial disposition hearing for the accused and at subsequent hearings where a change in status is possible (e.g., being released from a hospital to the community through a conditional discharge).

The goal of the current project is to review the literature from Canada and other relevant, common law countries to determine the appropriate role of victims when there has been a finding of NCRMD (or the equivalent) and to critically examine the issues surrounding a role for victims in Part XX.1 of the *Criminal Code*.

The Cost of Pain and Suffering

Contact: Dr. Kuan Li,
Research Analyst

The third methodological series report, "The Cost of Pain and Suffering from Crime in Canada", has recently been published and is available on our web site. This report presents the findings of research to assess the extent of crime induced pain and suffering in monetary terms. The research adopts an innovative approach to estimate the cost of pain and suffering from crime in Canada, both overall and for specific categories of crime, namely violent crimes, property crimes and other crimes such as drug offences and *Criminal Code* traffic offences. The estimation is based on three components: the number of incidents for each type of crime, the proportion of victims feeling worried about safety, and the value of perceived and actual mental distress as a result of the crime experience.

Ambrose Leung. (2005) *The Cost of Pain and Suffering from Crime in Canada.* Ottawa: Research and Statistics Division, Department of Justice Canada.

High Risk Offenders: Case Law Summary and Review

Contact: Suzanne Wallace-Capretta,
Research Manager

Canada has amended the *Criminal Code* of Canada regarding serious violent offenders many times over the last 55 years. The most recent amendments came in 1997 with changes to the Dangerous Offender section (Part XXIV) and the addition of the Long-term Supervision Order provision. The amendments, aside from the addition of the Long-term Supervision Order, also abolished the determinate sentence for dangerous offenders, replacing it with a mandatory indeterminate sentence. Other amendments included changes to streamline procedures.

In light of these legislative changes, a review of the case law after the enactment was conducted. This review compares cases that used the old legislation, some combination of the new and old legislation and cases using only the new legislation. Further, the report examines trends across a number of different areas, including: type of offence, factors related to a finding of dangerousness or long-term supervision, use of experts, tools for evaluation of dangerousness, common diagnoses, and treatment issues.

Canadian Perspectives on Selected Issues Related to the *Anti-Terrorism Act*

Contact: Nicole Crutcher, Senior Research Officer

Assessing the opinions of Canadians on the *Anti-Terrorism Act* has been an important issue for the Department of Justice and as such, a custom survey was designed to address a number of issues related to the Act as well as other related topics. A survey of over 1700 Canadians with an over sample of those identifying themselves as a minority was completed in March 2005. This survey addressed Canadians awareness of the Act , concerns over terrorism and post 9/11 security measures, application of the Act as well as possible effects of the Act. ▲

Mandatory Sentences of Imprisonment in Western Nations: Representative Models

Contact: Nicole Crutcher, Senior Research Officer

Mandatory minimum sentences of imprisonment continue to be a controversial sentencing tool. While Canada currently has 29 offences in the *Criminal Code* that carry a mandatory minimum sentence, there is little known about what other Westernized countries are doing with regards to this means of sentencing. This report examines whether there are mandatory minimum sentences in place in various countries and if so, for what type of offences. Furthermore, this report examines the occurrence of judicial discretion clauses that allow judges to go below the mandatory minimum sentence should the case warrant it. Where available, the report also discusses public opinion research conducted in other countries on mandatory minimum sentences. ▲

Review of Recent Literature on Criminal Harassment

Contact: Nathalie Quann,
A/Senior Statistician

Section 264 of the *Criminal Code* of Canada, the criminal harassment provisions, came into effect on August 1, 1993. Several recent *Criminal Code* amendments have strengthened the provisions by making murder committed in the context of criminal harassment a first-degree murder offence, by making the breach of a protective court order an aggravating factor in sentencing for criminal harassment, and by doubling the maximum sentence for the offence of criminal harassment to 10 years imprisonment for an indictable offence.

In light of these legislative changes, four more years of experience in implementing the criminal harassment provisions, and the emergence of Internet harassment as a serious risk, the Department of Justice conducted a review of recent literature on criminal harassment to contribute to a broader understanding of issues that have arisen since 1993. The major emphasis is on recent Canadian literature, but references are also made to some literature from the United States, the United Kingdom and Australia, where criminal harassment legislation has many similarities with the Canadian approach.

The review examines literature in Canada in four areas: statistical profiles; legal commentary on section 264 and subsequent related amendments to the *Criminal Code*; reviews of overall effectiveness of criminal harassment legislation; and, references to criminal harassment in the context of discussions of a variety of criminal and civil law issues.

Criminal Harassment: Understanding Criminal Justice Outcomes for Victims

Contact: Nathalie Quann,
A/Senior Statistician

This research investigated criminal harassment victims' experiences of the criminal justice system. Victims provided their opinions on how the justice system can effectively deal with criminal harassment. The following general questions guided the research:

1. What are the positive and negative experiences of victims in the justice system?
2. What do they believe constitutes a positive outcome?
3. What barriers stand in the way of achieving these outcomes?
4. What aspects of the law or system facilitate these outcomes?

CRIMINAL HARASSMENT... continued...

This qualitative research project involved in-depth interviews with 15 victims of criminal harassment who had gone through the criminal justice system and 11 key informants who work with victims. Victims were asked about their views on effective handling of cases, desirable outcomes and their own experiences while interviews with key informants supplement the insight provided by the victims themselves, presenting information from a larger pool of victims. All were asked about challenges they face when dealing with victims and working with the criminal harassment provisions.

This research found an alarming lack of awareness of the criminal harassment legislation, most strikingly among front line justice system personnel. The victims themselves were also largely unaware of the law and, even after having gone through the courts, were sometimes still confused about whether charges were laid and what actually defines stalking in the law.

Victims generally reported mixed experiences in the justice system, mostly negative. Key informant interviews confirmed most complaints raised by victims. Positive experiences occurred when police acted quickly, the complaint was taken seriously and through the use of Victims' Services. Negative experiences occurred when complaints were trivialized, when peace bonds were consistently broken and when the victim felt left out of the process.

Victims want three basic outcomes: they want to feel and be safe, they want the harassment to stop, and they want to be believed. Most reported that the justice system had not made them feel safer and that, even after the case is closed, the harassment can be ongoing or the experience has left them feeling so insecure that their life is still disrupted. Victims were generally exhausted and worn out by the harassment and simply wanted it to stop. Because many of the victims had an intimate relationship with the harasser, they were not intent on harsh punishment but wanted an end to the constant threat in their lives. Victims also expressed a great deal of concern over their complaints not being taken seriously at all levels of the justice process. They felt that personnel, especially police, did not understand why they were afraid and did not see the harassment as anything other than an annoyance. This perceived lack of validation exacerbated the emotional stress associated with the harassment.

Child Protection Program Consultation Models

Contact: Nathalie Quann,
A/Senior Statistician.

The Janeway Child Health Centre opened in 1966, and shortly thereafter the first Janeway Child Protection Team was formed to ensure reporting of hospital identified child protection cases. As the role of the Child Protection Team evolved members became directly involved in the assessment of suspected child abuse and neglect. The current Janeway Child Protection Co-ordinating Committee began in June 1991 with the stated purposes of providing an efficient, comprehensive and collaborative multi-disciplinary response to all referred cases of abuse, and ensuring that interventions take place in accordance with established policies and procedures and based on principles of the "the child's best interest". The Child Protection Co-ordinator assures that the program operates smoothly and efficiently. The issues brought to the Co-ordinator highlighted the value of the developing a "consultation model". In 1992 the Co-ordinator recognized the importance of formalizing the consultation model and began to document the details of cases in a ledger, hereafter referred to as the 'Logbook'. In addition, the consultation model was promoted during in-service sessions in the hospital. Out of the consultation model developed formalized hospital policies regarding protocol and procedures for case consultations, reporting and documentation of telephone calls, etc. Therefore, this study is a review of accumulated data from the consultation logbook compiled from 1992 to 2000 and an in-depth study to analyse additional information associated with cases identified for 1994 and 2000.

A review of the data as recorded in the logbook for 1992-2000 confirms the benefits of the consultation model and solidifies the intent of the Janeway Child Protection Program to continue its use. This study also highlights the value of expanding the use of this model to the wider community, which would result in the need for a full time co-ordinator position. Many questions from the present review pose possibilities for additional research including an in-depth comparison of data accumulated during each year of operation and a breakdown of data for the differing types of abuse. The study also indicates a need to develop a user-friendly data collection form for the Co-ordinator's use that could be used to facilitate further research.

Treatment Program for Children Disclosing Sexual Abuse

Contact: Nathalie Quann,
A/Senior Statistician

The data analysed in this study stem directly from the experiences of child victims of sexual abuse with the criminal justice system. The program, "That was Then...This is Now" began in May 1992 in St. John's, Newfoundland and Labrador. The program targets children who have disclosed sexual abuse. This retrospective study examines letters, written at the end of each treatment program by participants and their parents. Each letter contains comments made by individual participants about their experiences. In this manner, the letters represent the opinions of the treatment program participants as a group, yet allow for anonymous, individual expression. The purpose of the analysis is to ascertain which aspects of the criminal justice system posed difficulties or concerns for the alleged victims of sexual abuse and/or their parents.

Focusing on Children When Parents Divorce: The Importance of "Best Interests Criteria"

Contact: Jim Sturrock,
Research Manager

When parents decide to live apart they are forced to address the critical question of how to make decisions about caring for their children. The concept of best interests of the child provides a framework for making decisions about children when parents separate and divorce. It is seen as a means of furthering the well-being of children. One of the key legislative changes linked to the Child-Centred Family Strategy announced by the Department of Justice Canada is the proposed addition of specific criteria to the "best interests" clause. The inclusion of criteria is an important way to bring meaning to the concept of best interests, and it provides family justice professionals with evidence-based information to guide decisions. Specific criteria also help to bring consistency and increased predictability to the decision-making process. This paper provides additional information about the proposed criteria that can be used in public legal education and in materials that explain the proposed legislative changes. The proposed "best interests" criteria are discussed in terms of how they contribute to healthy child development and how they can be applied in individual situations to enhance child outcomes when parents divorce. Research findings and clinical evidence related to the proposed criteria are summarized.

The Emerging Phenomena of Collaborative Family Law: A Qualitative Study

Contact: Jim Sturrock, Research Manager

The exponential growth of "collaborative family lawyering" (CFL) is one of the most significant developments in the provision of family legal services in the last 25 years. In general, "collaborative lawyering" refers to a contractual commitment between lawyer and client not to resort to litigation to resolve the client's problem. The lawyer is retained to provide advice and representation regarding the non-litigious resolution of the conflict, and to focus on developing a negotiated, consensual outcome. If the client decides that legal action is ultimately necessary to resolve the dispute, the retainer stipulates that the collaborative lawyer (along with any other collaborative professionals, such as divorce coaches or financial planners) must withdraw and receive no further remuneration for work on the case. Collaborative lawyering is used in number of different areas of law and in particular in family law.

The Collaborative Family Lawyering Research Project is a three-year initiative funded by the Social Sciences and Humanities Research Council of Canada and the Department of Justice Canada, which examined the practice of CFL in Canada and the United States. The objective of the research was to explore the differences that CFL makes to the process and outcome of divorce disputes, and in particular to assess its impact on the clients of family legal services.

Study of Unmet Need for Civil Legal Aid in Nunavut, Northwest Territories and the Yukon

Contact: Ab Currie, Principal Researcher

The Department of Justice Canada, in cooperation with the Territorial Governments and associated Legal Aid Plans, will conduct research over the next 12 months to examine the nature and extent of unmet need in the territories for legal aid services in family and other civil law matters. Related research will be conducted simultaneously in all three territories. The research is being carried out as part of federal policy activity to support the development of access to justice services in the territories.

The study will initially involve interviews with representatives of organizations in the territories to gather information from informed individuals about the nature of unmet needs for services that might be provided through the legal aid system.

It is expected that preliminary results will be available by September 2005.

JustReleased

Here is a list of reports recently released by the Research and Statistics Division of the Department of Justice Canada that may be of interest to you, all of which are available on our Internet site at: http://canada.justice.gc.ca/en/ps/rs/index.html

The Development of the Brief Spousal Assault Form for the Evaluation of Risk (B-SAFER): A Tool for Criminal Justice Professionals

This report describes the development of a risk assessment tool to be used by criminal justice professionals in spousal abuse cases. The tool, called the Brief Spousal Assault Form for the Evaluation of Risk (B-SAFER), was developed and pilot tested with six police agencies in Canada, and in two jurisdictions in Sweden. The results of quantitative empirical analyses on Canadian and Swedish data are presented along with qualitative feedback received from police officers in Canada. Overall, the results were encouraging, suggesting that the B-SAFER tool includes relevant risk factors present in spousal assault cases and that the tool can be coded easily by police officers in the course of routine investigations..
http://canada.justice.gc.ca/en/ps/rs/rep/2005/rr05fv-1/index.html

The Cost of Pain and Suffering from Crime in Canada

This report presents the findings of research to assess the monetary cost of crime-induced pain and suffering. The research adopts an innovative approach to estimate the cost of pain and suffering from crime in Canada, both overall and for specific categories of crime, namely violent crimes, property crimes and other crimes such as drug offences and *Criminal Code* traffic offences. The estimation is based on three components: the number of incidents for each type of crime, the proportion of victims feeling worried about safety, and the value of perceived and actual mental distress as a result of the crime experience.Both the Uniform Crime Report (UCR) and the General Social Survey (GSS) on victimization were used as data sources, and the cost of pain and suffering from all crimes was estimated to be $35.83 billion using the GSS data, compared to $9.83 billion using police-reported statistics.
http://canada.justice.gc.ca/en/ps/rs/rep/2005/rr05-4/index.html

Assessing the Effectiveness of Organized Crime Control Strategies: A Review of the Literature

The purpose of this report is to examine studies and evaluations of strategies designed to combat organized crime. Overall, the review found that most of the evidence pertaining to the efficacy of organized crime control strategies is descriptive and anecdotal. Studies adopting sophisticated research designs are virtually non-existent. Nevertheless, the report highlights the challenges associated with the study of organized crime (e.g., lack of uniform definition of organized crime, paucity of data, etc.). It also describes 18 control strategies, including measures that range from regulation and legalization to tools available to prosecutors, law enforcement, and other public and private sector agencies. Finally, the report contains an assessment of the various strategies and their evaluations. In some cases, there were no data to help determine the effectiveness of the program; nonetheless, at least three of the 18 control measures can be considered "moderate to high" in effectiveness in combating organized crime.
http://canada.justice.gc.ca/en/ps/rs/rep/2005/rr05-5/index.html